LIBRARY
SUPREME COURT, U.S.

Vol. III
TRANSCRIPT OF RECORD

(Pages 983 to 1588)

Supreme Court of the United States

OCTOBER TERM, 1952

No. 53

AMERICAN NEWSPAPER PUBLISHERS ASSOCIATION, PETITIONER,

vs.

NATIONAL LABOR RELATIONS BOARD

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

PETITION FOR CERTIORARI FILED MAY 6, 1952
CERTIORARI GRANTED OCTOBER 13, 1952

INDEX.

PAGE

Hearing Before N.L.R.B., Case No. 9-CB-5—
- Appearances 361
- Exhibits Offered for Identification 362
- Arguments re motions 363
- Statement by Mr. Rhetts 364
- Statement by Mr. Hanson 364
- Motion by Mr. Sinsheimer 365
- Motion and Remarks by Mr. Van Arkel 366

Appearance of Andrew C. Hamilton, attorney for Chicago Newspaper Publishers Association—
- Statement by Mr. Hamilton 612
- Statement by Mr. Sinsheimer 613
- Stipulation by Mr. Van Arkel re Local 16 617

Colloquy 593, 612, 618, 721, 833, 1289

Statement by Mr. Sinsheimer 1197

Introduction by Stipulation of Documents, etc. by Mr. Sinsheimer 1201

Stipulation re correction of Transcript of Testimony of Woodruff Randolph 1582

Argument Re Exhibits 1583

Statement by Mr. Van Arkel re Agreements 1587

WITNESSES.

On Behalf of N.L.R.B.:

George N. Dale—
- Examination by Trial Examiner Leff 373
- Direct Examination by Mr. Sinsheimer 373
- Cross Examination by Mr. Van Arkel 395
- Redirect Examination by Mr. Sinsheimer 436
- Recross Examination by Mr. Arnold 443

Reese J. Highfield—
- Direct Examination by Mr. Sinsheimer 445
- Cross Examination by Mr. Van Arkel 458
- Redirect Examination by Mr. Sinsheimer 468

PAGE

John F. O'Keefe—
Examination by Trial Examiner Leff 469
Direct Examination by Mr. Sinsheimer 469
Direct Examination (continued) by Mr. Sinsheimer 546
Cross Examination by Mr. Van Arkel 588
Cross Examination (continued) by Mr. Van Arkel 621
Redirect Examination by Mr. Sinsheimer 634

Recalled—
Direct Examination by Mr. Sinsheimer 725

In Rebuttal—
Direct Examination by Mr. Sinsheimer 834
Examination by Trial Examiner Leff 836
Cross Examination by Mr. Van Arkel 838

Harold Grumhaus—
Examination by Trial Examiner Leff 637
Direct Examination by Mr. Sinsheimer 637
Cross Examination by Mr. Van Arkel 661
Redirect Examination by Mr. Sinsheimer 666

Worth Coutney—
Examination by Trial Examiner Leff 667
Direct Examination by Mr. Sinsheimer 667
Cross Examination by Mr. Van Arkel 686
Redirect Examination by Mr. Sinsheimer 699
Recross Examination by Mr. Van Arkel 701

In Rebuttal—
Examination by Trial Examiner Leff 839
Cross Examination by Mr. Van Arkel 840
Redirect Examination by Mr. Van Allen 841
Recross Examination by Mr. Van Arkel 841

James A. Griffin, Jr.—
Examination by Trial Examiner Leff 702
Direct Examination by Mr. Sinsheimer 702

T. E. Woodard—
Examination by Trial Examiner Leff 704
Direct Examination by Mr. Sinsheimer 704
Cross Examination by Mr. Van Arkel 719

PAGE

Eugene Frederick Kelly—
Examination by Trial Examiner Leff 844
Direct Examination by Mr. Sinsheimer 844
Cross Examination by Mr. Van Arkel 870

William J. Harrigan—
Examination by Trial Examiner Leff 896
Direct Examination by Mr. Sinsheimer 896

Resumed—
Direct Examination (continued) by Mr. Sinsheimer 904
Cross Examination by Mr. Van Arkel 917
Redirect Examination by Mr. Sinsheimer 935

Recalled—
Direct Examination by Mr. Sinsheimer 983

Franklin Dunn Schuh—
Examination by Trial Examiner Leff 936
Direct Examination by Mr. Sinsehimer 936
Cross Examination by Mr. Van Arkel 947

Norman Applegarth—
Examination by Trial Examiner Leff 983
Direct Examination by Mr. Sinsheimer 984
Cross Examination by Mr. Van Arkel 1026

William Mills—
Direct Examination by Mr. Martin 1055
Cross Examination 1057

E. R. Hatton—
Examination by Trial Examiner Leff 1059
Direct Examination by Mr. Martin 1059
Recross Examination by Mr. Van Arkel 1059

Clayton G. Underhill—
Examination by Trial Examiner Leff 1086
Direct Examination by Mr. Sinsheimer 1086
Cross Examination 1120

Frank J. Clancy—
Examination by Trial Examiner Leff 1124
Direct Examination by Mr. Sinsheimer 1124
Cross Examination by Mr. Van Arkel 1132
Redirect Examination by Mr. Sinsheimer 1133
Recross Examination by Mr. Van Arkel 1134

PAGE

Joseph J. Casey—
Examination by Trial Examiner Leff 1140
Direct Examination by Mr. Martin 1140
Cross Examination by Mr. Van Arkel 1185
Redirect Examination by Mr. Martin 1189
Recross Examination by Mr. Van Arkel 1190

William Mapel—
Examination by Trial Examiner Leff 1436
Direct Examination by Mr. Sinsheimer 1436
Cross Examination by Mr. Van Arkel 1501
Redirect Examination by Mr. Sinsheimer 1516

Recalled—
Direct Examination by Mr. Martin 1557

Charles C. Lane—
Examination by Trial Examiner Leff 1524
Direct Examination by Mr. Sinsheimer 1524
Cross Examination by Mr. Van Arkel 1531

Frederick Neal Murphy—
Direct Examination by Mr. Martin 1532
Cross Examination by Mr. Van Arkel 1550
Redirect Examination by Mr. Martin 1556

Cortland J. Strang—
Direct Examination by Mr. Martin 1559
Cross Examination by Mr. Van Arkel 1569

On Behalf of Respondents:

Edward Francis Fanning—
Examination by Trial Examiner Leff 729
Direct Examination by Mr. Van Arkel 730

John P. Pilch—
Examination by Trial Examiner Leff 735
Direct Examination by Mr. Van Arkel 735
Cross Examination by Mr. Sinsheimer 751
Redirect Examination by Mr. Van Arkel 753

Recalled—
Direct Examination by Mr. Van Arkel 973

Joe Rhoden—
Examination by Trial Examiner Leff 754
Direct Examination by Mr. Van Arkel 754

PAGE
Cross Examination by Mr. Sinsheimer 805
Examination by Mr. Diamond 829
Examination by Mr. Van Allen 830

Mearle M. Morrison—
Examination by Trial Examiner Leff 880
Direct Examination by Mr. Van Arkel 880
Cross Examination by Mr. Sinsheimer 890
Redirect Examination by Mr. Van Arkel 894
Recross Examination by Mr. Sinsheimer 895

Recalled—
Direct Examination (continued) by Mr. Van Arkel 903

James Cecil Rhodes—
Direct Examination by Mr. Van Arkel 953

Max Burns—
Direct Examination by Mr. Van Arkel 1060
Examination by Trial Examiner Leff 1061
Redirect Examination by Mr. Van Arkel 1072

Clifford G. Sparkman—
Direct Examination by Mr. Van Arkel 1073
Cross Examination by Mr. Sinsheimer 1082

Carl N. Flavin—
Examination by Trial Examiner Leff 1134
Direct Examination by Mr. Van Arkel 1134
Cross Examination 1138
Redirect Examination by Mr. Van Arkel 1139

On Behalf of the Union:

John J. Stack—
Direct Examination by Mr. Van Arkel 1192
Cross Examination by Mr. Martin 1194

Woodruff Randolph—
Examination by Trial Examiner Leff 1214
Direct Examination by Mr. Van Arkel 1214
Cross Examination by Mr. Sinsheimer 1242

Resumed—
Cross Examination (Resumed) by Mr. Hanson 1326
Redirect Examination by Mr. Van Arkel 1352

PAGE

Recross Examination by Mr. Sinsheimer 1360
Redirect Examination by Mr. Van Arkel 1365
Cross Examination 1382
Recross Examination 1435

Gerhard P. Van Arkel—
(Adverse)—
Direct Examination by Mr. Sinsheimer 1287
Cross Examination by Mr. Kaiser 1288

EXHIBITS.

General Counsel's Exhibit 1-G—
Motion, December 9, 1947, to Amend Complaint in Case No. 9-CB-5 1589

General Counsel's Exhibit 1-M—
Motion, December 16, 1947, to Amend Complaint in Case No. 9-CB-5 1591

General Counsel's Exhibit 1-W—
Notice, March 25, 1948, re testimony on resumption of hearings in Case No. 9-CB-5 1592

General Counsel's Exhibit 1-U—
Motion, January 7, 1948, to Further Amend Complaint in Case No. 9-CB-5 1593

General Counsel's Exhibit A1-D—
Motion, to Amend Complaint in Case No. 13-CB-6 1594

General Counsel's Exhibit 2-B—
Amended Certificate of Incorporation of American Newspaper Publishers Association, Incorporated, Dated May 1915 1596

Affidavits to Amended Certificate of Incorporation 1598

Appendix to Exhibit 2-B—
Books of Laws of the International Typographical Union, effective January 1st, 1947 1602

PAGE

Constitution, By-Laws and Convention Laws of the International Typographical Union and the Union Printers Home, together with Joint Agreement, etc 1603
Constitution 1603
Charter 1604
By-Laws 1622
General Laws 1693
Resolutions 1713
Burial Service 1717
Convention Laws 1723
The Union Printers Home 1730
Constitution 1733
By-Laws 1735
Resolutions 1753

Agreement re Ownership of Allied Printing Trades Union Label 1755

General Counsel's Exhibit—
4 (Letter) 1763
4-A (Letter, September 10, 1947) 1766
5-A 1770
5-B 1776
5-C 1779
5-D 1784
7-A 1785
7-B 1787
7-C 1793
7-D 1795
7-E 1799
7-F 1804
7-F-A 1822
7-G 1826
7-H 1846
7-J 1850
7-K 1858
7-L 1888
7-M 2012
7-N-1 2021
7-N-2 2023

	PAGE
7-N-3	2024
7-N-4	2025
7-N-5	2026
7-N-6	2027
7-N-7	2028
7-N-8	2029
7-N-9	2030
7-N-10	2031
7-N-11	2032
7-N-12	2033
7-N-13	2034
7-N-14	2035
7-N-15	2036
7-N-16	2038
7-N-17	2039
7-N-18	2040
7-N-19	2041
7-N-20	2042
7-N-21	2043
7-N-22	2044
7-N-23	2045
7-O	2046
7-P	2057
7-Q	2058
7-R	2068
7-S	2071
7-T	2074
8	2077
9-F	2078
10-A	2103
10-B	2104
10-C	2105
10-D	2106
10-E Photostats	2109
10-F	2125
10-H	2126
10-I	2129
10-J	2130
10-K	2131
10-L	2132

	PAGE
10-M	2134
10-N	2154
10-O	2155
10-P	2156
10-CC	2160
10-DD	2161
10-EE	2162
10-FF	2165
10-GG	2167
10-HH	2171
10-II	2171
10-JJ	2174
10-MM	2176
10-OO	2177
10-PP	2179
10-QQ	2181
10-RR	2182
11-A—Photostats	2184
11-B	2185
11-C	2186
11-D	2191
16	2193
17-A	2194
18-G	2196
19	2199
20	2208
21-A	2210
21-B	2215
22	2217
23	2219
24	2229
24-A	2230
24-B	2231
24-C	2237
24-D	2239
24-E	2241
24-F	2243
25	2247
26	2254
30	2255

	PAGE
31	2256
32	2257
33	2259
34	2261
34-A	2270
34-B	2271
34-C	2272
34-D	2275
34-E	2276
36-A	2277
36-B	2278
36-C	2279
36-D	2280
36-E	2281
36-F	2282
36-G	2283
36-H	2291
36-I—Photostats	2292
36-K	2303
36-L	2305
36-M	2307
36-R—Photostats	2310
36-S—Photostats	2320
36-T	2331
37-A	2332
37-B	2334
37-C	2336
47-A	2338
48-A	2339
50	2340
51	2340
52	2350
53-A	2351
53-B	2353
54	2355
55	2356
58	2372
59	2373
61	2374
63	2375

	PAGE
65	2376
66	2390
70-A	2393
70-B	2394
70-C	2395
71-A	2396
71-B	2397
72-A	2399
72-B	2401
72-C	2403
72-D	2405
73-A	2408
73-B	2409
73-C	2410
73-D	2411
73-E	2412
73-F	2413
74-A	2414
74-B	2415
75-B	2419
75-C	2426
76-A	2510
76-B	2514
76-C	2515
76-D	2516
76-E	2519
77-47	2527
77-48	2528
77-49	2529
77-50	2530
77-51a	2531
77-51b	2538
77-53a	2539
77-55	2540
80-A	2542
80-B	2564
80-C	2602
80-D	2621
81-B	2712
81-c	2713

PAGE

83 2714
85 2722
86 2734
87 2735
88 2736
90-A 2737
90-B 2738
91 2744
92 2745
93 2812
94 2815
95 2816
96 2823
97 2827
99 2828
100 2855
101 2857
102 2859
103 2864
104 2867
105 2882
106 2885
107 2891
108 2918
109 2919
110 2920
111a 2934
111b 2935
111c 2936
111d 2937
112 2938

Respondents' Exhibit—

3 2941
4 2952
5J 2953
5K 2956
5M 2961
5-N 2968
10A 2972

PAGE

11A 2978
11B 2979
11C 2981
18A 2982
18-B 3001
19A 3004
19-B 3029
19-C 3034
19-D 3037
19-F 3039
19-G 3042
19-H 3043

Inland Daily Press Association Ex. 1 3043

Inland Daily Press Association Ex. 3 3044

Southern Newspaper Publishers Assoc. Ex. 1 3050

Certificate of Service 3052

Proceedings in U.S.C.A. for the Seventh Circuit 3053
Opinion, Swaim, J. 3053
Decree 3095
Clerk's certificate (omitted in printing) 3095
Order allowing certiorari 3096

[2234] * * * WILLIAM J. HARRIGAN was thereupon recalled and testified as follows:

Direct Examination by Mr. Sinsheimer.

* * *

[2236] * * * Q. Did you ever tell a conciliator named Smith that you would pay $12.50 or $14.50 or anything else?

A. I never gave Mr. Smith one figure to work on the whole of that Saturday afternoon.

* * *

[2240] PROCEEDINGS

Trial Examiner Leff: The hearing will come to order. Here in Detroit today we are resuming the hearing which was adjourned from Chicago in the matter of the International Typographical Union and its Agents: Woodruff Randolph, Larry Taylor, Elmer Brown, and Dun Hurd, and American Newspaper Publishers Association, Case No. 9-CB-5, to which was consolidated for the purpose of hearing the matter of Chicago Typographical Union No. 16 and International Typographical Union and Chicago Newspaper Association on behalf of the Chicago Daily News, Incorporated, Illinois Publishing and Printing Company; The Journal of Commerce Publishing Company; Sun and Times Company; Tribune Company, Case No. 13-CB-6.

NORMAN APPLEGARTH, a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Trial Examiner Leff: What is your full name?

[2241] The Witness: Norman Applegarth, A-p-p-l-e-g-a-r-t-h.

Trial Examiner Leff: Where do you live?

The Witness: 4653 Buckingham, Detroit.

Direct Examination

Q. (By Mr. Sinsheimer) By whom are you employed, Mr. Applegarth?

A. Detroit Newspaper Publishers Association.

Q. What is your position with that association?

A. Executive Secretary.

Q. How long have you been Executive Secretary of the Association?

A. Since August 1, 1945.

Q. Prior to that time, what was your occupation?

A. Oh, for about two years prior to that, or two and a half, I was associated in the practice of law with Race, Haas, Allen and Brewer; the last-named individual was Labor Relations Counsel for the News and Secretary of the Association, during that time I assisted him.

Q. What is the nature of the Detroit Publishers Association, the Detroit Newspaper Publishers Association?

A. It is a voluntary, unincorporated association composed of the three companies which publish the Detroit Daily newspapers, namely: The Evening News Association which publishes the Detroit News; the Knight Newspapers, Incorporated, which publishes The Detroit Free Press; the Detroit Times Department [2242] of Hearst Publishing Company, Incorporated, which publishes The Detroit Times.

Q. How long has it been in existence?

A. Well, it was set up with its own offices and staff at the time I mentioned, August 1, 1945; prior to that it had stationery and existed in name since somewhere in the neighborhood of 1937 or '38, I believe; Mr. Brewer who was a full-time employee of the News, acted as Secretary of the Association. It wasn't until 1945 that it became somewhat an independent body.

Q. Are the three newspapers that you have named the only daily newspapers of general circulation in the Detroit area?

A. Substantially so. There are other daily newspapers published in the area which I assume would claim general circulation, they wouldn't approach the more than 400,000 that these papers publish each day.

Q. Would any of the others be in excess of 50,000?

A. I couldn't answer that, but I don't believe sub-

stantially in excess. What I am thinking of is the Polish Daily News and I don't think that circulation—

Q. (Interposing) The Polish Daily News is a foreign language newspaper or is it in the English language?

A. In the English language, I think. I don't even recall having seen a copy of it myself; it is bi-lingual, I am sure, both languages.

[2243] Q. Does the Association have a Charter or By-Laws?

A. It does not.

Q. Are there any written documents evidencing the nature of the Association?

A. No, the only document that I know to be signed by the members of the Association is my own employment contract.

Trial Examiner Leff: That is the most important document of all.

The Witness: To me, yes.

Q. (By Mr. Sinsheimer) Is that document one signed by representatives of the three newspapers?

A. It is. All other documents of the Association I sign in my capacity as Executive Secretary. We have each year one of the Business Managers of the papers designated as Manager, who would have authority to sign but in fact doesn't.

Q. By whom are you paid?

A. We operate the Association on a revolving fund which is maintained by contributions from the three papers and the checks are made out in the name of the Association and signed by any two of the three Business Managers of the papers.

Q. Each of the papers then contribute to the revolving fund.

A. That is correct.

Q. And out of that fund you are paid your salary, is that right?

A. That is right, and out of that fund all expenses of the [2244] Association such as the rent, my secretary's salary, office supplies, and so on, are paid. The Association has no activity of any significance other than the conduct of labor matters.

Q. That is, the only activities the Association carries on are labor relations matters for those three newspapers?

A. Collectively and individually.

Q. With respect to the Typographical Union and the Detroit Mailers Union; that is, the Detroit Typographical Union No. 18 and the Detroit Mailers Union No. 40, how have negotiations been carried on?

A. Well, I can testify of my own knowledge since 1945. The negotiations come annually in the fall of the year and have consisted of bargaining sessions at which a scale committee from the Union or Unions met with a bargaining committee consisting of myself and a representative or representatives from each of the three papers. In 1945 and in 1946 since our six printing craft contracts expire at the same time there were numerous combined sessions involving the committees of six Unions and the publishers' committees. These sessions were complemented by individual meetings between the various Union scale committees singly and the same publishers' committee with respect to items which interested that Union at all; the joint sessions were on matters of a common interest such as wages, sick-leave, vacations, and so on, that are normally uniform. During the fall of 1947, the combined activity did [2245] materialize with the exception of the Mailers' Union and the Typographical Union; each of the other four crafts, that is the Pressmen, Stereotypers, Photo-Engravers and Paper Handlers chose to meet separately. We did have two or three sessions where either the chairman of the scale committee or the local Union President of the four crafts met with us at one time. The 1947 negotiations with the Typographical and Mailers Union were conducted as one session.

Q. All of the 1947 sessions were with the Typographical Local Union and the Mailers Local Union, is that right?

A. Yes, all the formal bargaining sessions were on that basis.

Mr. Sinsheimer: I will ask the reporter to mark as Board's Exhibit No. 35-A, a document headed: Agreement between the Detroit Free Press, The Detroit News, The Times Publishing Company and Detroit Typographi-

cal Union No. 18, November 1, 1946, to October 31, 1947; and as Board's Exhibit 35-B, a document entitled Agreement between Detroit News, Detroit Free Press, Times Publishing Company and the Detroit Mailers Union No. 40, International Typographical Union, November 1, 1946, to October 31, 1947.

(Thereupon the documents above referred to were marked Board's Exhibits Nos. 35-A and 35-B for identification.)

Q. (By Mr. Sinsheimer) Mr. Applegarth, I will show you Board's Exhibit 35-A for identification and ask you what that is?

[2246] A. This is a printed copy of the contract between the three Detroit newspapers which I have named: The Times, The News, and Free Press, and Detroit Typographical Union No. 18, and covers wages, hours, and working conditions for the year beginning November 1, 1946, and ending October 31, 1947. I participated in negotiation of that contract.

Q. Has there been any contract entered into with the Detroit Typographical Union No. 18 since this contract?

A. There has not.

Q. I will show you Board's Exhibit 35-B for identification and ask you what that is?

A. That is the Agreement, the Agreement between the same three papers and the Detroit Mailers' Union No. 40, likewise covering wages, hours, working conditions, for the year beginning November 1, 1946, and ending October 31, 1947. I also participated in the negotiation of that.

Q. Has there been any contract or agreement entered into with the Detroit Mailers' Union No. 40 since Board's Exhibit 35-B?

A. No.

Mr. Sinsheimer: I will offer Board's Exhibits Nos. 35-A and 35-B in evidence.

Mr. Van Arkel: No objection.

Trial Examiner Leff: The exhibits are received.

(The documents heretofore marked [2247] Board's Exhibits No. 35-A and 35-B for identification were received in evidence.)

Q. (By Mr. Sinsheimer) Now, have contracts between the same parties as are parties to both Board's Exhibits 35-A and 35-B?

A. They have. Just exactly how many, I cannot tell you, the Typographical contracts go back many years prior to the Mailers' contracts; I think the Mailers' Union was organized about 1937 or '38 and the first contract involving the three papers was in 1940.

Q. That is, with the Mailers' Union?

A. The Mailers' Union. I have seen contracts back as far as 1923 with the Typographical Union but I am not certain of the interim period. Certainly as far back as '37 or '38 without question.

* * *

[2252] * * * Q. What was the first communication you received from representatives of the Local Unions, of the Typographical Union, or the Mailers' Union?

A. Both of the Unions sent a prescribed 60-day termination notice.

Mr. Van Arkel: I move that the word "prescribed" be stricken.

Trial Examiner Leff: The motion is granted.

[2253] A. The communications in each were addressed separately to the papers but are identical in content, with the exception of the reference to the Union.

Mr. Sinsheimer: I will ask the reporter to mark as Board's Exhibit 36-A, a letter dated August 18, 1947, addressed to Mr. Applegarth, signed by Max Burns, President, with the notation, "Copy to The Detroit News, The Detroit Free Press and The Times Publishing Company."

(Thereupon the document above referred to was marked Board's Exhibit No. 36-A for identification.)

Q. (By Mr. Sinsheimer) With respect to this exhibit, Board's Exhibit 36-A, were copies of that letter sent to those newspapers?

A. You are referring to the Mailers' Union. Mr. Burns sent originals to the newspapers and copies to me and perhaps you also have his communications.

Mr. Sinsheimer: I will ask the reporter to mark this as Board's exhibit 36-B, a copy of a letter dated August 28, 1947, addressed to The Detroit Free Press, and signed by the Detroit Typographical Union by Mr. C. G. Sparkman as President.

(Thereupon the document above referred to was marked Board's Exhibit No. 36-B for identification.)

Q. (By Mr. Sinsheimer) Board's Exhibit 36-B was sent to each of the newspapers, the three newspapers, by Mr. Sparkman, [2254] the original letter?

A. Yes.

Mr. Sinsheimer: I offer in evidence Board's Exhibits Nos. 36-A and 36-B.

Trial Examiner Leff: The exhibits are received.

(The documents heretofore marked Board's Exhibits Nos. 36-A and 36-B for identification were received in evidence.)

Q. (By Mr. Sinsheimer) Did you reply to Board's Exhibits 36-A and 36-B?

A. Yes, each of the publishers referred the letters to my office and under date of September 9 I replied to those, the Typographical Union and the Mailers Union on behalf of the three publishers.

Q. And did you write the same letter to both Unions with the sole difference that one was addressed to the Typographical Union and the other to the Mailers' Union?

A. And appropriate changes in reference to letters in the first paragraph.

Mr. Sinsheimer: I will ask the reporter to mark as Board's Exhibit 36-C, a copy of a letter dated September 9, 1947, addressed to Detroit Typographical Union No. 18, signed [2255] Norman W. Applegarth, and as Board's Exhibit 36-D, a letter—a copy of a letter dated September 9, 1947, addressed to Detroit Mailers' Union No. 40, and signed by Mr. Applegarth.

(Thereupon the documents above referred to were marked Board's Exhibits Nos. 36-C and 36-C for identification.)

Mr. Sinsheimer: I will offer Board's Exhibits 36-C and 36-D.

Mr. Van Arkel: Do you have a copy of Board's Exhibit 36-D?

Mr. Sinsheimer: Yes, they are the same.

Mr. Van Arkel: They are identical?

Mr. Sinsheimer: Identical, with a slight difference in the reference.

Mr. Van Arkel: No objection.

Trial Examiner Leff: Board's Exhibits Nos. 36-C and 36-D are admitted.

(The documents heretofore marked Board's Exhibits Nos. 36-C and 36-D for identification were received in evidence.)

Q. (By Mr. Sinsheimer) Did you thereafter have a meeting with the Detroit Mailers' Union and the Detroit Typographical Union?

A. Yes, on September 17th.

Q. And who was present at that meeting?

A. In my letters I had requested separate meetings. On September 17 the Unions came in together, Mr. Sparkman was [2256] accompanied by his Scale Committee which consisted of: From the Times, Mr. Richards and Mr. McMasters; and the Free Press, Mr. Sanders and Mr. Simmons, who is chairman of that committee. And from the News, Mr. Stiewe; Mr. Burns was accompanied by Mr. Patman, the Vice-President of the Union, and a committee of three; composed of Mr. Smith from The Free Press, Mr. Thiel and Mr. Shincoff. The Publishers' Committee consisted of Mr. H. C. Weidler of The Free Press, Mr. J. C. Montgomery, and Mr. P. B. Burgess of The News; Mr. W. H. Mills and Mr. C. R. Overmeyer of The Times, and myself. I might say that that is substantially the committees which participated in this session and all subsequent sessions. There may have been an individual absence or substitution here or there, but substantially those were the committees.

Q. Did the Union at that meeting or prior to that meeting submit a letter to you?

A. I recall no letter prior to the meeting. They submitted a letter following the meeting bearing the same date, I believe.

Q. What happened at that meeting?

A. Well, it was a typical collective bargaining conference. I asked in the beginning why the joinder of the two Unions, although I made no objection to their coming in together and they pointed out that their letters to the publishers were [2257] the same and that my letter in reply had been identical to both Unions and perhaps we could save some time by discussing the problems together; also they said that their thinking and positions were the

same. I asked them in view of the fact that their letters of termination varied from our past practice, to explain what they had meant. To make that clear, what I pointed out was that in the past sixty days or thereabouts, prior to the expiration of the contract, the Union had given notice of opening and it presented a detailed list of proposed changes and this year they had given us simply a notice of termination and a statement of willingness to bargain on conditions of employment. We had some discussions about the fact that there was a new law on the books and I asked them to state their position. During the session they stated that their proposals were that there be no contract or any contract and that we recognize that the only obligation on the part of the Union or its members would be to comply with the conditions of employment set by the Union. We discussed those and I counter-proposed that there be a contract, pointing out that our historic relationships had substantially always been on the basis of a contract and that in the interest of stability we proposed to continue that relationship. They asked or invited me to implement that proposal that there be a contract by specific proposal. As I recall, the meeting ended on the note that in view of their [2258] "No Position", I would have to consider whether I would implement it or not, and we adjourned the meeting.

Q. Who did the speaking or who were the principal speakers for the Publishers and for the Unions?

A. Practically without exception, the conversations in the meeting were restricted to discussions between Mr. Sparkman or Mr. Burns and myself, with occasional participation by others, principally it was as I have stated, in an effort to maintain an orderly discussion we had generally followed that practice of recognizing one principal spokesman on each side.

Q. And Mr. Sparkman was and is the President of the Typographical Local Union, and Mr. Burns the President of the Mailers' Local Union?

A. That is correct.

Q. Now, did you receive a letter from the Union following that meeting?

A. Yes, as the meeting broke up they said they would put their proposals in writing, and that meeting, incidentally, took place in the morning and either later that

afternoon or the following day I received communications identical from both Unions. The communications were addressed to the publishers individually but were turned over to me.

Mr. Sinsheimer: I will ask the reporter to mark this as Board's Exhibit 36-E, a letter dated September 17, 1947, addressed to Mr. Henry G. Wedler, Business Manager, The [2259] Detroit Free Press, and signed by Max Burns; with a notation of copy to Mr. Applegarth; and as Board's Exhibit 36-F, a letter of the same date, September 17, 1947, addressed to The Detroit Free Press, and signed by Mr. C. G. Sparkman.

(Thereupon the documents above referred to were marked Board's Exhibits Nos. 36-E and 36-F for Identification.)

Q. (By Mr. Sinsheimer) I am referring you to Board's Exhibits Nos. 36-E and 36-F. Are those exact copies of the letters which were received by the respective newspapers and signed by Mr. Sparkman and Mr. Burns?

A. They are.

Q. And the same letters were sent to each of the newspapers?

A. Each of the three papers; the letters to each of the papers by each of the Unions were identical.

Mr. Sinsheimer: I offer Board's Exhibits 36-E and 36-F.

Mr. Van Arkel: No objection.

Trial Examiner Leff: Board's Exhibits 36-E and 36-F are received.

(The documents heretofore marked Board's Exhibits Nos. 36-E and 36-F for identification were received in evidence.)

Q. (By Mr. Sinsheimer) Where was the September 17 meeting held?

A. In the offices of the Association, 732-33 Lafayette Building, Detroit.

[2260] Q. Were all the meetings held in the same place?

A. Yes.

Q. Following that meeting on September 17, what next occurred?

A. Next that occurred was a letter written by me under date of September 29, 1947, I should say letters, identical communications were sent to the Typographical Union and Mailers' Union which pointed out the difference be-

tween the Unions' position this year and prior years, started the Publishers' position with respect to desire for stable relations and a contract, reviewed the policy announced by the ITU at its—or adopted, I should say, rather than announced, at its August Convention, and certain communications from the ITU since then, and asked three specific questions.

Mr. Sinsheimer: I will ask the reporter to mark as Board's Exhibit 36-G a copy of a letter dated September 29, 1947, addressed to the Detroit Typographical Union No. 18, attention Mr. C. G. Sparkman, and consisting of seven pages, signed by Mr. Norman Applegarth, Secretary.

(Thereupon the document above referred to was marked Board's Exhibit No. 36-G for identification.)

Q. (By Mr. Sinsheimer) I will show you Board's Exhibit No. 36-G, Mr. Applegarth, and ask is that an exact copy of the letter which you sent to Mr. Sparkman?

[2261] A. Yes.

Q. And did you send an identical letter to the Detroit Mailer's Union No. 40 to the attention of Mr. Burns?

A. I did.

Mr. Sinsheimer: I offer Board's Exhibit 36-G.

Mr. Van Arkel: May we have just a minute to look at it?

Trial Examiner Leff: Take a few minutes recess.

(Recess taken.)

Trial Examiner Leff: You may proceed, please.

Q. (By Mr. Sinsheimer) Did you receive any reply to your letter of September 29 which is in evidence?

Mr. Van Arkel: That hasn't gone in.

Mr. Sinsheimer: I will offer Board's Exhibit 36-G.

Mr. Van Arkel: I have no objection on the ground of its accuracy, Mr. Examiner, but I do object to it on the ground that it is almost completely self-serving and obviously designed to make a record.

Trial Examiner Leff: Well, that, of course, will be taken into consideration in evaluating its weight, but I think it is a part of the negotiations and must be considered as such. Therefore, I will overrule the objection and receive the exhibit.

(The document heretofore marked Board's Exhibit No. 36-G for identification was received in evidence.)

The Witness: Is there a question?

[2262] Q. (By Mr. Sinsheimer) Mr. Applegarth, did you receive any reply to your letter of September 29 which has been received in evidence as Board's Exhibit 36-G?

A. Yes, replies from each of the Unions, dated October 6.

Mr. Sinsheimer: I will ask the reporter to mark as Board's Exhibit 36-H, for identification, a copy of a letter dated October 6, 1947, addressed to Mr. Norman Applegarth, and signed by Mr. C. G. Sparkman.

(Thereupon the document above referred to was marked Board's Exhibit No. 36-H for identification.)

Q. (By Mr. Sinsheimer) And ask you if that is an exact copy of the letter received from Mr. Sparkman?

A. Yes.

Q. That was on or about the date it bears?

A. Correct.

Q. And you received an identical letter from Mr. Burns?

A. Yes, bearing the same date.

Mr. Sinsheimer: I will ask the reporter to mark—

Q. (By Mr. Sinsheimer) That bore on the heading Detroit Mailers' Union?

A. Yes.

Mr. Sinsheimer: I offer Board's Exhibit 36-H.

Mr. Van Arkel: Well, might I just check this for a moment? No objection.

Q. (By Mr. Sinsheimer) What happened after you received it?

[2263] A. The meeting of Ooctober 8th referred to in the last paragraph of the Unions' letters, which was another session between the same committees which had met on September 17th.

Q. The same people were present at the same place?

A. To the best of my recollection, yes, sir. As I said before, with committees of that size there may have been one member absent, a substitute present or a vacancy not filled; my committee was constant throughout.

Q. What occurred at that meeting?

A. The reply of the Unions of October 6th had not answered the three questions contained in my letter of September 29th and the session was given over almost entirely to an endeavor on my part to find out specifically what the position of the Unions was.

Q. What was said?

A. Of course I can't at this time, nor perhaps could I have immediately afterwards, remember the exact words.

Q. What was the substance?

A. The substance of our discussion was this: The Unions maintained their position that they preferred that there be no contract and that we operate under conditions of employment; they stated that if we could arrive at a contract that was satisfactory, that might be all right, but I could get no statement from them as to what might be satisfactory. They reiterated their statement in the letter that they would [2264] bargain in good faith in accordance with the requirements of the Act which of itself didn't mean much.

Mr. Van Arkel. I move that be stricken.

Trial Examiner Leff: Granted.

Mr. Sinsheimer: What was that?

Trial Examiner Leff: Do not characterize what was said, just let it go at that.

A. (Continuing) They invited me to again implement my proposal that there be a contract by submitting a proposal. I said that while this was contrary to our past bargaining policy or practice, rather, since they usually were the ones seeking changes and indicated the changes that they wanted, we did not intend to be stubborn about that sort of practice and would give further consideration to making a proposal. I was unable to get unequivocal answers to the questions asked in the letter.

That meeting adjourned with the undertaking on my part to consider further whether we would make a proposal.

Q. What occurred after the meeting on October 8th?

A. Next was our meeting of October 16th. Again, between the same committees at the same place, at which I presented to each of the Unions a document which is entitled: "Publishers' Proposal".

Mr. Sinsheimer: I will ask the reporter to mark as Board's Exhibit 36-i—

[2265] Mr. Van Arkel: What was 36-H?

Mr. Sinsheimer: The letter of October 6th, 1947.

I do not know whether Exhibit 36-H was received or not and I am again offering the exhibit, that is the letter of October 6th.

Trial Examiner Leff: If it has not been received, it is received now.

(The document heretofore marked Board's Exhibit No. 36-H for identification was received in evidence.)

Mr. Sinsheimer: I am asking the reporter to mark Board's Exhibit No. 36-i, a document headed: Agreement, on the lefthand side, Agreement between the Detroit News, The Detroit Free Press, The Times Publishing Company, and Detroit Typographical Union No. 18; and on the upper right-hand corner the words "Publishers' Proposal", and the date of October 13, 1947. This consists of ten pages, the last page bearing at the bottom, prepared for signatures.

(Thereupon the document above referred to was marked Board's Exhibit 36-i for identification.)

Q. (By Mr. Sinsheimer) I will ask you, Mr. Applegarth, is this an exact copy of the proposal which you submitted to each of the Unions on October 16th?

A. This is a photostatic copy of the proposal submitted to the Typographical Union; the proposal of the Mailers' Union [2266] necessarily varies because of the differences in the contracts; basically the proposals are prepared upon the same theory with correlative deletions and substitutions but because of the differences in contracts they are not duplicates.

Mr. Sinsheimer: I will ask the reporter to mark as Board's Exhibit 36-J an Agreement, a document consisting of ten pages, headed Agreement between the Detroit News, The Detroit Free Press, The Times Publishing Company, and Detroit Mailers' Union No. 40, International Typographical Union, and it bears the date of October 13th, 1947, "Publishers' Proposal".

(Thereupon the document above referred to was marked Board's Exhibit No. 36-J for identification.)

Q. (By Mr. Sinsheimer) Mr. Applegarth, I will show you what has been marked as Board's Exhibit No. 36-J, and ask you is that an exact copy of the proposal submitted to the Mailers' Union at the October 16th, 1947 meeting?

A. Yes, it is a photostatic copy.

Q. What is the significance of the date October 13, 1947?

A. That was the date my secretary typed it.

Q. But it was not submitted until the 16th, is that right?

A. That is correct. I am not at all certain whether between the 13th and the 16th I may have informally submitted a copy to Mr. Burns or Mr. Sparkman; I may have done that, but I am not sure. In any event, it was formally presented as the [2267] Publisher's Proposal on October 16th.

Mr. Sinsheimer: I offer Board's Exhibits 36-i and 36-J.

Mr. Van Arkel: No objection.

Trial Examiner Leff: Exhibits 36-i and 36-J are received.

(The documents heretofore marked Board's Exhibits Nos. 36-i and 36-J for identification were received evidence.)

Q. (By Mr. Sinsheimer) Now, did you begin the meeting by offering the proposals which are in evidence as Board's Exhibits 36-i and 36-J?

A. Yes.

Q. And what occurred after that?

A. I presented the proposal, and using, I believe, the Typographical one as the basis for presentation, because as I said before, the changes are made on the same theory, I went through section by section and explained the changes. I explained the change in dates, pointing out that we were still seeking a year's contract. I pointed out that I had deleted the provision accepting the General Laws of the International Typographical Union because of their conflict with the Taft-Hartley Bill in that they contained closed-shop provisions and that I had submitted therefor a savings clause in view of the newness of the law and to protect the contract against bona fide mistakes which might be in violation of the law so that even if one part were found in violation the remainder [2268] would stand. I had deleted the section on the Closed Shop and at the side had noted that union security to be discussed. I pointed out that we could no longer sign a closed-shop contract; however other forms of union security were available and that I had not tried to guess the Unions' thinking by offering what might be—what I might think was acceptable since it was substantially their matter.

I deleted the wage scale and noted that that was to be discussed; pointing out that normally we had a basis before we talked money.

I explained that I had changed throughout the contract the word "members" since this was a closed-shop contract from which we were working to the word "employees" or "persons" as might be most applicable. I stated that I had struck a portion of Section 17 because it was a part of the closed-shop setup. And, likewise, with certain other deletions, such as that in Section 38. With respect to Section 34, which was all struck work clause, I had deleted that as being in conflict with the Law. Likewise, at the end of the

Joint Standing Committee, deleted reference to the Union Laws, for the same reason. Also, certain sections in the apprenticeship provisions.

The Union had stated at the close of the prior meeting that if the Publishers would propose, they would, after examining such proposal, make counter-proposals. During the [2269] latter part of that meeting the Union spokesmen began discussing in anticipation of their presentation at a later date certain matters that they said they had in mind. They discussed, suggested the possibility of a sixty-day cancellation clause; they suggested various other thoughts that they had in mind, saying that they were simply seeking our reaction to them, such as reserving the right not to work with non-union members or not to cross ITU picket lines.

The meeting broke up on the note that while our proposal did not seem an acceptable basis to them, they would after due consideration present us with a counter-proposal.

Q. Now, when you referred to the sections, for example, Section 17, you were referring to the section in the proposal to the Typographical Union, is that right?

A. That is correct.

Q. That is, Board's Exhibit 36-i?

A. Right.

Q. Prior to the present time, that is in the previous contracts, they had all been closed-shop contracts, is that right?

A. Well, what we loosely call perhaps a closed-shop contract; prior to 1946 there had been provision in varying terminology that if the Union did not supply an adequate number of employees, we might advertise for help. That was changed in one of the contracts, I believe the Mailers', that had previously been changed in the Typographical contract to provide that [2270] where previously we would advertise for help, that we could advertise for other members of the Union; in other words, the contract provided that we employ only their members, that they would supply them, that if they failed to supply them we might advertise in the name of the Union for other members of the ITU.

Q. Now, when you told the Union about the changes that you were making from the old contract, did the Union representatives have anything to say about those changes?

A. They indicated their unacceptability but rather than going into very much detail on my proposal, they turned

their discussion, as I recall it now, more to the things that were going on in their minds, that they were anticipating counter-proposals. The sum of it was that they did not like any of the changes that I had made and pointed out that the proposal was, in their opinion, incomplete because of its lack of a dollar scale.

Q. Was there any discussion of struck work?

A. We had many discussions of struck work all through these negotiating sessions and unquestionably beginning with this session, since this is the first time that I had actually presented or we had before us any proposal with the deletions.

Q. What did the Union representatives have to say about struck work at the meetings at which it was discussed?

A. That in deleting it entirely from the contract we had [2271] gone further than was necessary under the law; that it was their position that we could contract not to require their members to work on struck work. Our reply was that any incorporation in the contract of such provision carried grave dangers under the secondary boycott provisions of the Act and also with respect to the Sherman Act.

Q. Following the meeting of October 16, what next occurred?

A. As I said, this meeting adjourned to give the Unions an opportunity to prepare a counter-proposal. We reconvened on October 23, at which time they presented counter-proposals.

Q. And what were those counter-proposals?

A. The counter-proposals of each of the Unions were what we have come to know since, so far as their first paragraph, and Sections A to I as Section P6a.

Q. The Union presented a form P6a, including a sixty-day termination clause and clauses A to I.

A. That is correct. The balance of the counter-proposal followed so far as hours of work, vacations, holidays, what we commonly call working conditions, the old contract, with proposed modifications. For example, they proposed a shortening of the hours, I forget at the moment whether they proposed in the case of the Typographical Union they proposed a split shift rate. I am going on recollection without looking at any document.

Q. Was there any wage figure in the proposals?

[2272] A. There was not. Let me—before I am positive,

on that, examine the counter-proposal, if I may. I am sure of my answer on one. There was not in the Typographical proposal.

Trial Examiner Leff: Had any wage figures been presented to you before that time?

The Witness: By the Unions?

Trial Examiner Leff: Yes.

The Witness: No. There were no scales in those original proposals.

Trial Examiner Leff: Did you have that P6a form from both Mailers and the Typographical Union?

The Witness: No document labeled as such. The document in the case of the Printers was a printed document, but as I said, the introductory paragraph and the first nine, if "I" is the ninth letter, nine clauses came from P6a and the balance was—

Trial Examiner Leff: My point was, was that true of both the Mailers and the Typographical Union?

The Witness: Yes, the only difference in the proposals was that one was lettered and one was numbered.

• • •

[2273] • • • Q. (By Mr. Sinsheimer) Were those P6a proposals submitted at the beginning of the meeting?

A. They were. When we had adjourned the last prior session the Unions had expressed the hope that they would be able to furnish the counter-proposals in advance of the meeting so that we might have an opportunity to consider them and not simply have to adjourn that meeting to a later date for the purpose of analysis. If I recall correctly, Mr. Sparkman did give me informally and with the understanding that it was not presented because they might change their minds overnight, a copy of the proposals the day before that meeting, but it was in the afternoon and I had no opportunity to examine it. So that so far as the receipt is concerned, of it, the first time we officially saw the document or saw them with an opportunity to examine them was at that meeting.

Q. What occurred after you received the document?

A. As I recall it, the Union followed somewhat the same [2274] tactics that I had but indicated, as I recall it was Mr. Burns speaking in the beginning that we might well concentrate on the first part of the document, not going to the latter part because of the new proposals therein contained. They went through the document down through

Section I, explaining the changes and purposes for them as they saw them. And my position being that although I had anticipated such a proposal, I had not analyzed it and could do nothing except make preliminary comments which I did.

Q. What else did you have to say?

A. I told them that I saw no basis for settlement in a contract that was cancellable on sixty days' notice.

I told them that the limitation of liability to $25.00 in the Joint Standing Committee Clause which is Section 8 in the Typographical proposal, in my mind was bad, for two reasons: One, that it put a very low value on the observance of the contract; was practically an invitation to breach the contract and further, since it was so unrealistic I doubted its legal validity. So far as the Laws Clause was concerned, which is Section 3, and which differed from the old contract in containing an acceptance of the Laws: "Not in conflict with law or this contract", that that might be acceptable. So far as Section 4 is concerned, I commented that we could not accept a clause where we agreed not to assign work to persons other than "Journeymen and [2275] Apprentice Printers' as defined by the party of the second part, so far as their clause—

Trial Examiner Leff: (Interposing) Did you understand that to mean that—strike that. Did you understand "Journeymen" to mean their Union members?

The Witness: They denied it. We had some discussion about that and they said that it did not necessarily mean that, but my point was a practical one, although it may have had some legal implications, that we could not allow them to set up standards, for example, of competency. Who is a journeyman and who is an apprentice, and who can come in, competency is determined by management through its foremen.

Trial Examiner Leff: You mean as a matter of business policy rather than a matter of legality?

The Witness: That is right. Further, so far as the legality was concerned, I pointed out that in our opinion it was a subterfuge to retain the protection that had been taken away by the Taft-Hartley Bill, in view of the fact that they wanted to retain the right to determine who could come into the room. Also I objected to the clause on the basis that it contained a ten-day cancellation provision. We wanted a stable contract. I, in commenting on Section 7, substandard

conditions, contended that that was likewise an effort to retain by indirection the struck work clause; also it had a ten-day cancellation clause.

[2276] (By Mr. Sinsheimer) Did you say anything else about P6a at that meeting?

A. Well, these Sections of the two proposals formed the basis of a preliminary discussion along those lines and the basis for practically our entire discussion at what turned out to be our final meeting on October 23rd. I say final, 27th, I meant; this was the meeting of October 23rd; by final I mean as between the first days of the negotiating proceedings, so to speak, there were subsequent meetings at which Mr. Randolph was present.

Q. Did you discuss at that meeting or at any other time any of the other provisions of P6a?

A. Taking the October 23 and the October 27 meeting practically as a unit, since they were both revolved around this with the exception of the Laws Clause which is Section 3, probably "C" in the Mailers' proposal, we objected to each of the clauses either on legal or a practical ground; we objected to the sixty-day termination clause on the practical ground that it gave us no assurance of a stable scale or a reasonable period of time, and that without knowing for what period of time I was bargaining, it was impossible to realistically fix a scale; that a scale for a month might be one thing, a scale for sixty days something else, and a scale for a year something entirely different. Furthermore, that it gave them without any reason an opportunity to cancel the contract for [2277] reasons of their own that no longer might be legal reasons. For example, the advent of a non-Union man. I objected to Section 1 which is their jurisdiction section, and we recognized the party of the second part as the exclusive bargaining representative of all employees subject to the latter's jurisdiction. I asked them if that meant simply their own members, and the answers were not clear. I was willing to recognize the Detroit Typographical Union as the collective bargaining agent, as it unquestionably is for the composing room employees, and if we wanted to define composing room employees more specifically than we had heretofore, that could be done.

Q. Did you tell them that?

A. We had a good bit of discussion about jurisdiction. I told them specifically on many occasions that I didn't question their bargaining rights, nor did I question their

existing jurisdiction. I remember saying on several occasions: "Your jurisdiction in the composing room begins at one end of the room and ends with the other; there isn't and hasn't been any question about it."

Q. Did you discuss Clause "B" at that meeting or any other meeting?

A. Yes. I am looking at the one that is numbered 2, I presume: That the party of the first part recognizes the right of the second part to formulate their own laws. My comment [2278] on that was that their own laws with respect to the internal affairs of the Union was none of our business and I saw no necessity for the clause and felt that since we had not had the clause heretofore, it might be interpreted to mean something that we did not presently anticipate.

Q. Did you discuss Clause "E"?

A. Yes. The party of the second part recognizes that the party—I am sorry.

The party of the first part recognizes that the party of the second part cannot compel members to work with non-Union printers and apprentices and, therefore, agrees that any refusal of its workers shall not constitute a breach of the Agreement.

Trial Examiner Leff: Are you almost finished with this conference, this meeting?

Mr. Sinsheimer: I will be through shortly.

Trial Examiner Leff: We will then take a recess, when you have finished.

Mr. Sinsheimer: With this meeting?

Trial Examiner Leff: Yes, that is what I mean; how many more questions?

Mr. Sinsheimer: I think I will be through shortly.

Q. (By Mr. Sinsheimer) The entire meeting was devoted primarily to a discussion of P6a, is that right?

A. That is right, and my rejection of each of the clauses [2279] therein contained, a re-presentation of my proposal as a basis and discussion of various possibilities of change in language but no suggested change of mine with respect to P6a appeared to be acceptable.

Mr. Van Arkel: I move that be stricken.

Trial Examiner Leff: Beginning with the words, "no suggested change • • •"

Mr. Van Arkel: Yes, "• • • appeared to be acceptable".

Q. (By Mr. Sinsheimer) What did the Union say about

it; what did the Union say about the change, the change in P6a?

A. They said that—

Trial Examiner Leff: That will be stricken.

A. They said this document contained what they thought was a proper basis for a contract, that they would listen to any suggestions of mine but that basically they felt they had to have the points therein covered.

* * *

Q. (By Mr. Sinsheimer) Mr. Applegarth, you were stating that you had some discussion about Clause "E". Was that No. 5 on the paper you are looking at in P6a?

A. Yes, sir.

Q. Which provided that the party of the first part recognizes [2280] that the party of the second part cannot compel members not to work with non-Union printers and apprentices and therefore agrees that any refusal to work with non-Union employees shall not constitute a breach of this Agreement; what did you have to say about that?

A. Well, I pointed out that a section toward the end of the Act, and by the Act I mean, of course, the Taft-Hartley Bill, indicates that you cannot compel a man to work against his will but that I objected to such a clause in the contract because it was a back-handed approval of such a cessation.

Q. A back-handed approval by whom?

A. By the Publisher agreeing to the clause, when we recognized their lack of ability to compel, we are by inference saying that we won't even ask them to persuade, a right that I didn't want to give up.

Q. Well, did you discuss the next clause?

A. I pointed out, of course, that refusal in concert to work with non-Union men would be a violation of the Act.

Q. Did you discuss the next clause in P6a?

A. Yes. Recognize, of course, the practical problem of one ITU Local crossing the picket line of another. I objected to the clause because the provision in the Act says that you cannot, in effect, I am paraphrasing, of course, cannot compel an employee to cross a valid picket line at a place outside of his regular place of employment; it says nothing—[2281] his own place of employment.

Trial Examiner Leff: How do you interpret that?

The Witness: That was the reason I didn't want to put a clause in the contract because of the difficulties in that

clause, because of the position of the Publishers always that when we have a contract we expect people to perform them even if it requires the crossing of a picket line of another Union. The clause had practical objections as well as raising legal problems, so that was unacceptable.

Q. Now, this discussion of P6a occurred at the two meetings, is that right?

A. Yes. The first meeting when I got it first, I touched upon these points; at the second meeting I confirmed them and perhaps enlarged upon them.

Q. Those were the meetings on October 23 and 27?

A. 23 and 27, that is right.

Q. Now, you have already stated a discussion concerning the next clause which is marked "G"; did you discuss Clause "H"?

A. The Joint Standing Committee clause?

Q. Yes.

A. Yes. I might say further that with respect to "G" that we had—that is their sub-standard conditions as defined by the party of the second part, again taking control completely from the Publishers; they could claim anything under the sun was produced under sub-standard conditions but my [2282] major objection to it was that it was—I don't recall using these words, but "a thinly disguised substitute for the struck work clause".

Now, with respect to the next section, my principal objections to that were two: One, I have already mentioned, and that is the—does that appear in the following section, the $25.00 appears in the following section. It seemed to me that the clause was incomplete in some respect, that it provided no method of selecting a fifth arbitrator in the event that the parties deadlocked; we have a provision in our own contract that if the parties are unable to select the so-called chairman of the Joint Standing Committee, who is in fact an arbitrator, that he may be selected by the President of the International Union and the Chairman of the Special Standing Committee of the ANPA. This provided no method of breaking that deadlock but my principal objection was to the $25.00 limitation of liability which invited contract breaches.

Q. That appears in Paragraph "I"?

A. That is right, the last section. I assured them of our willingness to make the Joint Standing Committee procedure exclusive, stating that in my opinion, when it had al-

ways been my interpretation that it was, the Joint Standing Committee procedure having been set up by the parties as its own private court for solving disputes with respect to the contract, anyone resorting to law without going through that procedure could probably be stopped by appropriate process; we had no [2283] objection to that.

Q. Following that meeting—

A. (Interposing) To complete that meeting, let me say this: It was obvious that—strike the word "obvious". We hadn't gotten any place; the Union's spokesmen and members of the committee continued quite forcefully at the end of this session, as they had throughout the others, mentioned the fact that what they were interested in was a wage increase. The meeting adjourned on my reiterated statement that we still felt that a contract was necessary and that until I knew for what I was bargaining I couldn't determine the price. They asked me if I would state the Publisher's position in writing, and I did that in a letter dated October 29, two days after the meeting.

Q. That was the meeting of the 27th, what you have just testified to, then was with respect to the meetings on both the 23rd and 27th of October?

A. My last observations were of the close of the meeting of October 27th.

Q. Thereafter they asked you at the close to submit a letter?

A. Stating the Publisher's position. I had stated that on a basis subsequently confirmed in the letter we would grant a 60 days' retroactive commitment.

Mr. Van Arker: This is what number?

Mr. Sinsheimer: Board's Exhibit 36-K.

[2284] I will ask the reporter to mark as Board's Exhibit 36-K, a copy of the letter dated October 29, 1947, addressed to the Detroit Typographical Union No. 18, attention Mr. C. G. Sparkman.

(Thereupon the document above referred to was marked Board's Exhibit No. 36-K for identification.)

Q. (By Mr. Sinsheimer) And I will ask you, Mr. Applegarth, is that an exact copy of a letter which you sent to Mr. Sparkman and the Detroit Typographical Union on or about the date it bears?

A. Yes; an exact duplicate was sent to the Mailers' Union.

Q. And to the attention of Mr. Burns?

A. Right.

Q. Prior to sending this letter had you made any statement concerning wages being retroactive if agreed on?

A. Yes, to the best of my recollection at the close of the meeting, near the close of the meeting of October 27th.

Mr. Sinsheimer: I will offer Board's Exhibit 36-K.

Mr. Van Arkel: No objection.

Trial Examiner Leff: Board's Exhibit 36-K is received.

(The document heretofore marked Board's Exhibit No. 36-K for identification was received in evidence.)

Q. (By Mr. Sinsheimer) Now, did you receive any reply to Board's Exhibit 36-K, your letter of October 29?

A. Yes, under date of October 30 from each of the Unions.

[2285] Mr. Sinsheimer: I am asking the reporter to mark as Board's Exhibit 36-L, a copy of a letter dated October 30, 1947, addressed to Mr. Norman Applegarth, headed Detroit Typographical Union No. 18, and signed by C. G. Sparkman; and as Board's Exhibit 36-M, a copy of a letter dated October 30, 1947, headed Detroit Mailers' Union No. 40, addressed to Mr. Applegarth and signed by Mr. Max Burns.

(Thereupon the documents above referred to were marked Board's Exhibits Nos. 36-L and 36-M for identification.)

Mr. Van Arkel: Have you offered them?

Mr. Sinsheimer: I will, in just a minute.

Q. (By Mr. Sinsheimer) I show you Board's Exhibits 36-L and 36-M, and ask you, are those exact copies of letters received by you on or about the date they bear from the Detroit Typographical Union was 36-L, and Detroit Mailers' Union Board's Exhibit 36-M?

A. They are.

Mr. Sinsheimer: I will offer Board's Exhibits 36-L and 36-M in evidence.

Mr. Van Arkel: No objection. We will offer to stipulate the third paragraph.

Mr. Sinsheimer: The offer is rejected.

Trial Examiner Leff: The exhibits will be received.

(The documents heretofore marked Board's Exhibits Nos. 36-L and 36-M for identification were received in evidence.)

[2286] Q. (By Mr. Sinsheimer) What transpired next after you received the letters Board's Exhibits 36-L and 36-M.

A. Well, I have two things in mind and I am not certain which comes first, but I believe it was on the Saturday of that week that the Detroit Times received a notice from each of the Unions in the form of a transmittal letter enclosing a copy of a notice sent to the Michigan State Mediation Board that a strike was impending at the Detroit Times; no similar letters were received by the other two Publishers.

Q. That is, only the Times received the letter?

A. That is right. That is right, when I said I had two things in mind, the second was that at the Union meeting the first Sunday in that month, the Union's meetings they took action, I was so informed by Mr. Sparkman and Mr. Burns, advising that a deadlock in negotiations existed; that being a step required under their laws and notifying the International.

• • •

[2287] • • • Q. (By Mr. Sinsheimer) Well, following that, did you have a meeting with the Union representatives, with the Michigan Conciliation Service?

A. Yes, two sessions, November 7 and November 11. The session on November 7, I objected to the notice as not being in complaince with the statute because it failed to state the issues involved, a requirement of the statute.

Q. What statute, of the State of Michigan?

A. The Michigan State Mediation Act, we commonly refer to it, it has a longer title than that. It is the Tripp-Bonine Law which was passed in the last session of the Legislature providing for notice and the taking of a strike vote prior to, as a condition precedent to the calling of a strike in the State of Michigan.

Trial Examiner Leff: Let me ask you, did I miss something or you got ahead of me somehow—was there any testimony about the taking of a strike vote or notice of intention to strike; did you testify about that?

The Witness: That is what we are leading to.

Mr. Van Arkel: He did have testimony that strike notices [2288] had been sent to the Detroit Times.

The Witness: That is right.

Trial Examiner Leff: All right, go ahead.

Q. (By Mr. Sinsheimer) Mr. Applegarth, at this meeting before the State Conciliator or State Mediation Board, were the issues discussed related to whether the statute had been complied with or to the negotiations between the newspapers and the Union?

A. Can you read me that question?

(Question read.)

A. Of necessity, both.

Q. (By Mr. Sinsheimer) What was said with respect to negotiations between the Newspapers and the Union?

A. Well, I can only answer that, Mr. Sinsheimer, this way—my first objection went to the notice, the sufficiency of the notice as not containing a statement of the issues; my second objection went to the fact that they were splitting up an established bargaining unit consisting of the three Newspapers. At the beginning of that meeting the Union handed to the State Mediator a letter in which they stated that—in substance, that efforts to mediate would be useless, or words to that effect; then in response to my objection that there was no statement of the issues, the Unions submitted a letter that the issue was: "Upward revision of wages". I objected to that as not being the only issue and that led to some [2289] discussion between us as to what had happened in our negotiations.

Q. And did you then each side describe its respective views as to what happened?

A. Not in great detail.

Q. What was the substance of what the Union had to say and you had to say?

A. Well, the Union's position was that they were entitled to determine the issue upon which they wanted to strike; that there might be 15 or 20 other issues, but the one that they were concerned with was more money; that we hadn't offered any money and that that was what they wanted the strike vote on. My position was that the basic issue between us was whether or not there was to be a contract, that we hadn't even gotten down to a discussion of that issue or a good many other problems. The Board overruled me.

Q. That is the Mediation Board?

A. That is right.

Q. Then did you subsequently appeal that?

A. The Board took the matter under advisement on the 7th and—I am being a little inaccurate—the Board is not

present at the hearings, the State Mediator, the Mediator took it up with the Board and came back and said that the Board was going to order a strike vote. After meeting on the 11th there was some discussion as to the time and the formal order of the Board was made two days later, as I recall [2290] it, about the 13th. Under the statute there was a five-day appeal period. I think the vote was set for the 19th and the appeal taken on the 18th.

Trial Examiner Leff: Who does the appeal go to?

The Witness: To the Circuit Court in Wayne County.

Q. (By Mr. Sinsheimer) And the appeal operates as an automatic stay?

A. So the Attorney-General ruled

Q. The Attorney-General of Michigan?

A. In advising the Board, yes.

Q. And the matter was then before the Court?

A. Went on the regular defendants' appeal docket and came up for hearing the latter part of December.

Q. Was any decision ever rendered?

A. No, so far as I know, I am not counsel of record in the case—so far as I know, the appeal is still pending. There were hearings on the appeal before Judge Maher.

• • •

[2293] Mr. Sinsheimer: I will ask the reporter to mark as Board's Exhibit 36-N a copy of a Western Union telegram dated November 20, 1947, addressed to Clifford Sparkman, signed by N. W. Applegarth; as Board's Exhibit 36-O, a copy of a Western Union telegram dated November 20, addressed to Mr. Max Burns signed by Mr. N. W. Applegarth; as Board's Exhibit 36-P, a copy of a Western Union telegram dated November 20, addressed to Mr. Woodruff Randolph signed by Mr. Applegarth.

(Thereupon the documents above referred to were marked Board's Exhibits Nos. 36-N, 36-O and 36-P for identification.)

Q. (By Mr. Sinsheimer) I will show you what has been marked [2294] as Board's Exhibits 36-N, O, and P, and ask you whether they are exact copies of communications addressed by you on November 20 to the person named therein?

A. They are.

Mr. Sinsheimer: I will offer Board's Exhibits Nos. 36-N, 36-O, 36-P in evidence.

Mr. Van Arkel: I object to them for the reasons already stated.

Trial Examiner Leff: Objection overruled; Exhibits 36-N, 36-O and 36-P are received.

(The documents heretofore marked Board's Exhibits Nos. 36-N, 36-O, and 36-P for identification were received in evidence.)

Q. (By Mr. Sinsheimer) Did you receive any reply to any of Board's Exhibits 36-N, 36-O, or 36-P?

A. I received a telegram from Mr. Randolph.

Mr. Sinsheimer: I will ask the reporter to mark as Board's Exhibit 36-Q, a copy of a Western Union telegram dated November 20, 1947, addressed to Mr. Applegarth, bearing the signature of Woodruff Randolph.

(Thereupon the document above referred to was marked Board's Exhibit No. 36-Q for identification.)

Q. (By Mr. Sinsheimer) I show you what has been marked as Board's Exhibit 36-Q, and ask you is that an exact copy of the wire received by you from Mr. Randolph?

[2295] A. Yes.

• • •

[2296] • • • Mr. Sinsheimer: I will offer Board's Exhibit 36-Q in evidence.

Q. (By Mr. Sinsheimer) Did you receive—

Trial Examiner Leff: Let me rule on the exhibit. Exhibit 36-Q is received, there being no objection.

• • •

[2297] • • • (The document heretofore marked Board's Exhibit No. 36-Q for identification was received in evidence.)

• • •

[2298] Q. (By Mr. Sinsheimer) Now following the communications with respect to production in the Detroit newspapers, did you have any further communications or correspondence or meetings with the representatives of the Union?

A. We had the meetings that I have referred to a moment ago with Mr. Randolph beginning the 23rd, the 24th, I am sorry.

Q. Where were those held?

A. Those were held in my office. I think it was Friday or Saturday, which would be the 21st or 22nd, Mr. Burns called me and said that Mr. Randolph who had been in

Chicago would like to come to Detroit in view of his notification by the Local Unions of the deadlock and meet with the Publishers beginning Monday afternoon, if that would be possible. I told him such a meeting would be arranged. So, we met Monday the 24th beginning at about two o'clock. That meeting was comprised of my regular committee and Mr. Randolph, Mr. Sparkman, Mr. Burns, and I can't at the moment say whether all of their committees or selected portions of their—it seems to me all of their committees were there. The room was fairly full.

Q. What occurred at that meeting?

A. Mr. Randolph opened the meeting explaining that his presence was due to the fact of the actions that I have already testified to by the Local Unions; that it was his obligation under the laws of the International to endeavor to investigate and endeavor to compose the differences, if possible. [2299] Oh, he spoke, as I recall, for the better part of an hour. Obviously, I cannot repeat all that he said. The first part of his discourse was the Taft-Hartley Act and that it made it possible, as I recall his words, to hatchet hell out of the ITU.

Q. To what?

Mr. Van Arkel: What?

A. Hatchet.

Trial Examiner Leff: What?

The Witness: Hatchet.

Trial Examiner Leff: Oh.

A. He stated that it gave the Publishers weapons that they heretofore had not had, took away rights that the Union theretofore had and that it was up to the ITU to protect itself. He made several observations with respect to the part that the publishers had played in connection with the adoption of the Act and referred to what he called the ANPA Party Line so far as insistence upon contracts and disapproval of the acts of the ITU were concerned.

Getting into the question of the problem as between the Publishers and the ITU, he said they were going to protect their rights not to work with non-Union men; that they wouldn't work with non-Union men; that they would protect their jurisdiction.

[2300] He said he had five points: "First, we don't want to work with non-Union men; second, we don't want to work on non-Union work; third, we will determine our jurisdiction; fourth, we don't want to sign a contract, and fifth,

we want more money, and when the contracts expire we have the first four."

And he urged that we discuss money with him. On behalf of the Publishers, I replied that our position in Detroit was not drawn from any party line; that we felt definitely that the proper way to operate was on the same basis as in the past, and that was under a contract for a definite term; that I knew that he had been in Boston and knew that he had been in Chicago and was somewhat conversant with what had transpired in discussions at both places but I hoped in Detroit we would be able to arrive at a solution.

The first discussion was an hour and a half or two hours duration and he said he hoped we would think it over.

Q. Do you recall any discussion of ITU policy?

A. He said that one thing about the ITU was that their policy was the same every place.

Q. Did you discuss conditions of employment?

A. He mentioned conditions of employment, again, I am in this difficulty that while there were three sessions they ran one right after the other, Monday afternoon, Tuesday morning and Tuesday afternoon and Wednesday morning, and what I attribute [2301] to him at one session he may have said at another, but his position was that the ITU would not underwrite any contract be it P6a or any other, and in that connection our contracts in Detroit heretofore, perhaps with an exception that I do not recall, but those that I know about, were underwritten by the ITU that under conditions of employment they couldn't be adopted without the approval of the ITU and urged that that was the proper basis of solving the problem.

Trial Examiner Leff: What does underwriting a contract mean to you?

The Witness: May I see the last contract?

A clause by which it is underwritten expresses that, I think: This Agreement is approved as being in compliance —I don't know the exhibit number I am reading from— Board's Exhibit 35-A. This Agreement is approved as being in compliance with the laws of the International Typographical Union and the undersigned on behalf of the Executive Council of the International Typographical Union hereby pledges its full authority to the fulfillment thereof. It is an undertaking by the International that if the Local doesn't live up to the contract they will do some-

thing about it. I might say that on occasion they have, in Detroit.

Now, I do not recall what I said just before I answered your question.

Trial Examiner Leff: Have you not finished your answer? [2302] Suppose you read it back.

The Witness: I was talking about conditions of employment.

Trial Examiner Leff: Did you say he would underwrite conditions of employment?

The Witness: No, he said that conditions of employment could not be adopted without approval of the ITU and its authorization. Now, whether he—he didn't use the word "underwriting"—that is what I am saying, whether that is tantamount to it or not, I do not know.

Q. (By Mr. Sinsheimer) Do you recall anything else at that meeting?

A. Well, as is true in all of the sessions, Mr. Sinsheimer, a tremendous amount is said and it is awfully hard to quote it from memory particularly in view of the fact that I had some ten or twelve negotiations going on at that time. He stated his position very clearly and definitely. I stated the Publishers' position that we wanted a contract; we hoped that we would find a solution of the problem that I recognized the seriousness of the entire situation and hoped that we would find the answer to it. He referred to P6a not by name, or perhaps he did, I do not even remember that, we had perhaps at that meeting—that is where I can't place the time from discussion of that principally my recollection of the first meeting is the statement of the Union's position, our [2303] counter-statement, and I do not recall that we got into any details. It seems to me that it was general.

Q. Now, you had another meeting the following day?

A. Yes.

Q. The same people, and at the same place?

A. The same people and at the same place.

Q. What occurred at that time?

A. Well, that meeting can best be characterized by Mr. Randolph's own statement at the beginning of the following session, that was that we had spent two days and hadn't gotten any place. We again exchanged our views, as we did many times during the course of these three meetings,

Mr. Randolph urged the advisability of conditions of employment. He pointed out that under the conditions of employment if we took action or committed acts objectionable to the Union they could cease work at once and that they would do so to protect the rights they were seeking to maintain, namely, not to work with non-union men not to work on struck work; to protect their jurisdiction. That under P6a we could hold them for sixty days but that still, as he put it, they would be in a position that they wanted to be in and that was to run in the event any of these things occurred. He went through P6a pointing out, for example, when I objected to the section dealing with sub-standard work that they could declare type metal as being produced under sub-standard conditions if they wanted to. [2304] He said: "We have no such intention, what we meant is—" Making it perfectly clear that he meant struck work. It was a case again to a large extent with respect to P6a to a restatement of reasons I had given the Local, reasons for its unacceptability. He continued to harp upon the fact of what the boys wanted was money but they didn't have to have a contract to get money necessarily, they could wait to solve, as he put it, the imponderables, but the question of an increase in scale was eminent. My position on behalf of the Publishers was throughout the entire proceedings that we had always he'ofore, before we talked about money, known the foundation of our relationship, but this time we didn't. I remember in the last session pointing out to him, just before or shortly before we deadlocked, that he was somewhat like the man who would come to me with an automobile to sell and said: "I want to sell you an automobile." And I would say: "Fine, what is it, a Ford or a Cadillac?" And he said, "Never mind that, make me an offer." That I was in the same position of trying to make an offer on scale here, if I did not know what I was bargaining for.

Q. That last statement was in the last meeting—when was that meeting?

A. That was the meeting of the 26th.

Q. That is, you had three meetings, one—

A. (Interposing) Well, four, if you like. We had both a [2305] morning and an afternoon session on Tuesday; an afternoon session on Monday the 24th, a morning and afternoon session on Tuesday the 25th, and a morning session on the 26th.

Q. Was there any discussion of the Union's power to strike?

A. Yes.

Q. What was said?

A. Mr. Randolph's observations ran along this line, that: "Heretofore we could put a clause in the contract with respect to struck work or we could strike over the matter and now we can't, but we are going to retain our right to cease work or to strike to attain our objectives."

The sessions on Wednesday—Tuesday, rather, I am sorry—were of a pretty thorough exploratory nature. By that I mean Mr. Randolph went through P6a to see would I take that—he urged and reiterated his reasons for conditions of employment and I likewise presented again the Publishers' proposal that had been presented to the Union on October 13. We discussed the elimination of the struck work clause. I pointed out to him that the struck work clause in the Detroit contracts was a verbatim copy of the struck work clause in the Laws and that I was willing to accept the P6a clause, the ITU General Laws, suggesting to him that that that might be sufficient solution to the struck work problem. He did not think so. I made the same observation with respect to crossing picket lines, which I believe is a part of the ITU General Laws, although I could [2306] be wrong on that. I told him of my objections to the $25.00 limitation on damages; of our willingness to make the Joint Standing procedure exclusive. He insisted that the Joint Standing Committee Clause had never been used to get damages against the ITU. He seemed to think that that was sufficient answer despite our objections to it. He stated that he would give me no answer on anything until I gave him a complete proposal, gave me no indications of what might or might not be satisfactory. I objected to any such type of—as I recall it, I expressed it: "Fishing expedition." I referred to the fact that an offer, or suggestion, if that would be a better word, had been made in Chicago which he had not rejected, a proposal that is commonly called the Willard Proposal, which was a provision for a limited sixty cancellation period. And without answering that, my suggestion being that perhaps that might form a solution to our difficulties, without giving me an answer, the discussion turned to some other point.

Q. Now, is that about all you can recall of the Randolph meetings?

A. Well, I could obviously go on for an indefinite period reciting interchanges between us.

Q. Well, that in substance is the part of the discussions, important discussions that occurred?

A. Well, I might add this: He came to the position of [2307] stating frankly that he would not consider anything else until he had the whole, and I said that I could not make a scale offer until I knew in some manner what that scale was going to buy. He said, "We are deadlocked." And I said, "We are stymied." He said, "They are synonymous." I suggested in view of the fact that he was going to be available that afternoon, if he had any suggestions he might get in touch with me and that likewise if I had any suggestions I would get in touch with him. The result of that suggestion was what might be called an on-the-record meeting but off-the-record discussion which took place that afternoon and led to some further discussions, but they produced no solutions.

Q. After the meetings at which Mr. Randolph was present did anything else occur?

A. With respect to our negotiations with the Union?

Q. Yes.

A. Unions, rather?

Q. Yes.

A. Yes, I might say this, in the interest of completeness, in Detroit, as I presume elsewhere, there are bargaining sessions and there are many informal discussions, those between particularly the principals involved, those went on from time to time with no production. Sometime ago I testified that we had some hearings before Judge Maher in December on this matter and that matter, as the Examiner pointed out, is [2308] not yet decided.

Trial Examiner Leff: That is right.

A. Judge Maher suggested that the parties might well give further consideration to their problems and endeavor to arrive at some solution; and that led to a preparation by me of an amended proposal and a meeting on January 2 in my office, at which, since it was an exploratory meeting and not a full-dress bargaining session, just Mr. Sparkman and Mr. Burns were present on behalf of the Unions, and together with my committee. I presented an amended proposal dated—bearing a typing date of December 30.

Mr. Sinsheimer: I will ask the reporter to mark as Board's Exhibit 36-R a document entitled Agreement be-

tween the Detroit News, The Detroit Free Press, The Times Publishing Company and Detroit Mailers' Union No. 40, International Typographical Union, dated December 30, 1947, and also bearing at the top the word "Pet. 59", and I will state for the record that that refers to an exhibit number given the particular document in the Federal Court Injunction proceedings recently had in Indianapolis.

(Thereupon the document above referred to was marked Board's Exhibit No. 36-R for identification.)

Mr. Sinsheimer: This document consists of 11 pages; the last page providing for signature.

[2309] Q. (By Mr. Sinsheimer). Mr. Applegarth, I will show you what has been marked as Board's Exhibit 36-R, and ask, is that the proposal which you submitted to the Union on January 2, 1948?

A. That is a photostat of the proposal that I submitted to the Mailers Union and a similar one was submitted to the Typographical Union.

Q. I do not have a copy of the one submitted to the Typographical Union, but the changes made from the prior one are the same, is that right?

A. Well, the December 30 proposals are a re-draft of the October 16 proposal and the changes made are made on the same theory but perhaps with slightly different words because of the contract variations in both cases.

Q. Well, do you have a copy of the proposal submitted to the Typographical Union?

A. Yes.

Mr. Sinsheimer: I will ask the reporter to mark this as Board's Exhibit 36-S; being a document headed Agreement between Detroit News, The Detroit Free Press, The Times Publishing Company and The Detroit Typographical Union No. 18; Publishers' proposal, December 30, 1947; consisting of ten pages, the last of which provides for signature.

(Thereupon the document above referred to was marked Board's Exhibit No. 36-S for identification.)

[2310] Q. (By Mr. Sinsheimer) Board's Exhibit 36-B for identification is the proposal submitted to the Typographical Union at the January 2 meeting?

A. That is correct.

Trial Examiner Leff: Are you offering them in evidence?

Mr. Sinsheimer: I am offering Board's Exhibits 36-R and 36-S.

Trial Examiner Leff: What is 36-S?

The Witness: The same, except that it covers the Detroit Typographical Union No. 18.

Mr. Sinsheimer: We will have copies made.

Mr. Van Arkel: No objection.

Trial Examiner Leff: They will be received.

(The documents heretofore marked Board's Exhibits Nos. 36-R and 36-S for identification were received in evidence.)

Q. (By Mr. Sinsheimer) Can you state in what respects Board's Exhibits 36-R and 36-S differ from Board's Exhibits 36-I and 36-J?

A. Yes. Board's Exhibit 36-I and Board's Exhibit 36-J, I had struck from the contract the provision accepting the Laws, the ITU Laws. In the December 30 proposals I put in the P6a provision accepting the International Laws not in conflict with law.

I had a savings clause in the earlier proposal to the [2311] effect that if any provision were found to be invalid the remainder of the contract stood. I amplified that savings clause to provide that to the extent—at this moment I am reading from the Mailers' proposal—to the extent that any of the provisions of Sections 4, 5, 7, 8, or 39 of the contract between the parties covering the period November 1, 1946 to October 31, 1947, become lawful, they shall immediately be made effective for the remainder of the term hereof. Those sections, those section numbers refer to deletions which the Publishers believe necessary as in conflict with the Taft-Hartley Law. The substance of the change was to agree that if we had deleted anything on the basis of it being illegal and it turned out to be proper, it would go back in.

I had in the earlier proposals stricken from the Joint Standing Committee references to ITU Laws, and now, having accepted them insofar as lawful, that was re-inserted.

The struck work clause which had been wholly removed was left in with a preface so that the clause began: So far as permissible under the law the Detroit Mailers' Union No. 40 has the right to define as struck work, and so on. And a provision for machinist manning was reinserted. Those are substantially the changes. It might be that on a line-to-line comparison that I found out earlier that I had

omitted to strike out the word "members" and substituted the word [2312] "employees", but substantially that is it.

Q. That was presented at the meeting on January 2?

A. Right.

Q. After being prepared on December 30?

A. Yes.

Q. What occurred after that was presented?

A. Well, at the meeting Mr. Sparkman and Mr. Burns stated that they did not believe that it formed an acceptable basis for settlement. We went over a good bit of the ground that we had theretofore gone over before, they reiterated the suggestion that we could do business under conditions of employment or by simply putting in a voluntary increase, as had been often suggested. We said we still didn't think that was the right basis and the meeting adjourned with no result accomplished other than this was given to them for consideration. That was the last I heard of that proposal.

Trial Examiner Leff: Was anything said about the duration of any wage scales that might be agreed upon including this voluntary increase?

The Witness: Well, my proposals contemplated a year's contract.

Trial Examiner Leff: But when you were told that they might do business if you put in a voluntary wage increase and let it go at that, was that to be for any definite term?

The Witness: No definite term. Statements of assurance [2313] were made, "We can arrive at an understanding so that we won't be tampering with them." But no definite term of three months or nine months, if that is what your question—

Trial Examiner Leff: Yes.

Q. (By Mr. Sinsheimer) Now, had you previously stated that you were extending the period during which you would make a pay increase retroactive?

A. That statement was orally made in Judge Maher's Court in his chambers and was subsequently, not in my presence, I was so informed, and subsequently confirmed by me in writing by letter about the 30th.

Mr. Sinsheimer: I will ask the reporter to mark Board's Exhibit 36-T, a letter dated December 30, 1947, addressed to the Detroit Typographical Union No. 18, signed by Mr. Applegarth.

(Thereupon the document above referred to was marked Board's Exhibit No. 36-T for identification.)

Trial Examiner Leff: Will you be much longer with this witness?

Mr. Sinsheimer: No.

Q. (By Mr. Sinsheimer) I will ask you, Mr. Applegarth, is that an exact copy of a letter sent on or about that date to the Detroit Typographical Union?

A. Yes. The same letter was sent to the Mailers' Union.

Q. That is, you sent an identical letter to the Mailers' [2314] Union?

A. Yes.

Q. Is that right?

A. That is correct.

Mr. Sinsheimer: I will offer Board's Exhibit 36-T.

Trial Examiner Leff: Is there any objection? Hearing none, Board's Exhibit 36-T is admitted.

(The document heretofore marked Board's Exhibit No. 36-T for identification was received in evidence.)

Q. (By Mr. Sinsheimer) Did you ever have any further correspondence or meetings with the Union?

A. Are you now coming up to the present time?

Q. Yes.

A. I extended the retroactive action through February 28, I believe I did that by letter.

Q. That is, you notified both Unions that the retroactive wage would be extended through February 28, and when did you do that?

A. Shortly before the end of January, before the expiration period, I do not have my retained file copy, although I can produce it if you want it.

Q. Mr. Burns says the 29th of January the letter was sent extending the retroactive wage.

A. That coincides with my recollection. Thank you. If I may refresh my recollection for a moment—

[2315] Trial Eaminer Leff: Surely, you can look at your papers if you wish.

A. I do not recall any other sessions until a recent one. I might be wrong. There was a further meeting at the request of the Typographical Scale Committee on February 18.

Q. Were both Unions present?

A. No, this was at the request of Mr. Sparkman, he called me a day or so before then and said that his com-

mittee would meet, would like a meeting with the Publishers, and we arranged the meeting for that date. My committee was there and Mr. Sparkman's regular committee and that meeting consisted of urging by each member of the committee, Mr. Sparkman's committee, that the membership was dissatisfied with the continuation of the old wage scale, that some solution to our problem should be found; that we should reconsider and solve the problem, but most importantly we should put more money in the pay check. It was substantially a plea for a voluntary increase with no strings attached. My position on behalf of the Publishers was a restatement of our prior position, that we did not consider that to be a proper method and went over briefly again the reasons for rejecting P6a; the reason why we did not think Conditions of Employment were acceptable. I might say in that regard that I had not mentioned before and it was mentioned a good may times, that one of our objections to Conditions of Employment, and [2316] I stated it to Mr. Randolph, was we felt that we might thereby become liable under the Taft-Hartley Law because the Conditions of Employment were drawn on a closed-shop theory and our acquiescence would be enough to cause us trouble. Some of that ground was re-covered and the meeting simply adjourned with the committee having no commitment from us to change our position. They said they still hoped we might change.

Q. What happened after that?

A. The next that happened was a meeting on March 1, if that is Monday—yes, between my committee and the Typographical Scale Committee, and the Mailers were not present. Prior to that meeting we had had informal discussions jointly with Mr. Burns and Mr. Sparkman and it was as a result of those informal discussions that the formal meetings were set up for March 1 and 2.

Q. March 1 you met with the Typographical Union?

A. That is correct, and at that time I told the Typographical Committee that our position was the same so far as our belief in the principles involved was concerned, that we still thought the proper method was a contract for our usual period of a year at least; that Conditions of Employment were not acceptable and P6a was not acceptable but we recognized the fact that since we had settled with four other Unions and put in a 12 per cent scale increase

in each case, that their members were suffering to the extent of not receiving [2317] that same increase due to circumstances beyond their own making; that their membership had not put the Taft-Hartley Law on the books as individuals and their families were entitled to our consideration; that many of them had been in our employ a good many years, and rather than continue to deprive them of an increase which we had in fact admitted to be proper, in view of the fact that we had made it to several other Unions, we would put into effect a 12 per cent increase in the scale effective November 1, 1947, if the Union would do two things: Accept that scale increase with the understanding and assure us that it was so accepted that it would not be further adjusted before October 1, 1948. In other words, that that would be the scale for this period, and further, that normal operations in Detroit would be restored and maintained; that there would be no recurrence of—I think I used the words "monkey business" that had occurred in the recent past. I was not present at the meeting with the Mailers' Union on March 2, thanks to your invitation to come to Indianapolis.

* * * *

[2318] * * * A. Nor was I present when Mr. Sparkman—that offer was carried to a Union meeting on the following Sunday which would be the 6th and I was not present when Mr. Sparkman reported back to my committee. I was informed by Mr. Burns in Indianapolis that a similar offer had been made to him by my committee on the day following my departure and he also informed me of the result of the Union meeting on Sunday, that the composing room or printers had accepted the proposal. I have forgotten the vote, although he gave it to me and that the Mailers had rejected it. As I say, I was not present when Mr. Sparkman met with my committee and reported the results of the Union meeting notifying that the offer as made was accepted.

I was present at the meeting the following week with Mr. Burns' Union, I believe it was the following week Mr. Burns' Union, the Mailers, rejected the proposal and then at a subsequent meeting accepted it. And Mr. Burns and his committee came in and so reported to me and my committee.

Trial Examiner Leff: When was it accepted by the men?

The Witness: That would be the 13th, I believe; the 14th, I am looking at Saturday, the acceptance by the Typographical was the 7th and the Mailers the 14th.

Q. (By Mr. Sinsheimer) Has that increase been put into effect?

A. It has.

[2319] Q. And made retroactive?

A. Yes, sir.

Q. To what time?

A. November 1, 1942, the expiration of the old contract.

Trial Examiner Leff: Have you received any report of monkey business, as you describe it, since the new wage scale was put into effect?

The Witness: No, I would not say that we had. I have had some reports of dissatisfaction but with certain production, not in the nature of concerted activity, individual matters only.

Trial Examiner Leff: You feel that the wage increase settled that?

The Witness: It certainly had something to do with it.

• • •

Q. (By Mr. Sinsheimer) During this period there have been some other strike notices filed, in December or January?

A. Yes. I can give you the dates if you like.

Q. What was it, in general, what happened?

A. Well, what happened was that—wait a minute—I have got to back my months up again, October, in November, I believe, or—yes, I am quite sure it was in November a notice was sent by each of the Unions to the State Mediation [2320] Board, accompanied—or a copy sent to The Detroit Free Press giving notice of an impending strike there and that was followed a short time later, before the end of the year, in any event, by similar notice with respect to The Detroit News. Those notices were both the subject of hearings before the Labor Mediation Board with exactly the same result as The Free Press case; the Board overruled the Publishers' objection to the form of the notice. The notice then contained a statement of the issue—as to the statement of the issues and the splitting of the bargaining unit. And from the Board's order an appeal

was taken, that happened in both The Free Press and The News cases. The Free Press came upon the Docket and because of the fact that it was—that it involved the same parties and the same problems as The Times case, it was consolidated with it and Judge Maher adjourned it. I think I received a copy of a notice of dismissal of The Free Press appeal. So far as I know the News and Times remain.

• • •

[2321] Q. (By Mr. Sinsheimer) Do you now have any contract with either Union?

Mr. Van Arkel: Any written contract?

/Q. (By Mr. Sinsheimer) Any contract of any kind?

A. We have only the arrangements to which I have testified.

Q. That is—

A. (Interposing) An assurance from the Union, by the responsible Union Officers that the scale is to stand until the end of October.

Trial Examiner Leff: Is that a verbal assurance?

The Witness: Yes, sir, nothing is in writing.

Q. (By Mr. Sinsheimer) In what form did the Union Officers make that assurance?

A. I was only present when Mr. Burns made—when Mr. Burns reported, and Mr. Burns said to me: "We have accepted it on the same basis as the Typographical Union." Now, exactly what the assurance made by Mr. Sparkman is, I do not know. I wasn't there. It was made to my committee. All I know is the form in which I made the offer and the report that it was accepted. So, I do not mean to put words in the mouths of the Union officers.

[2325] • • • Mr. Sinsheimer; I will ask the reporter to mark as Board's Exhibits Nos. 37-A, 37-B and 37-C, documents consisting of two pages each relating to the business and commerce of The Detroit Times Department of the Hearst Publishing Company, Board's Exhibit 37-A; of The Detroit News, Board's Exhibit 37-B, and of The Detroit Free Press, Board's Exhibit 37-C.

(Thereupon the documents above referred to were marked Board's Exhibits Nos. 37-A, 37-B, and 37-C for identification.)

• • •

[2326] • • • Mr. Sinsheimer: I offer Board's Exhibits 37-A, 37-B, and 37-C in evidence.

Trial Examiner Leff: The exhibits are received.

(The documents heretofore marked Board's Exhibits Nos. 37-A, 37-B and 37-C for identification were received in evidence.)

Mr. Sinsheimer: That is all I have.

Cross Examination by Mr. Van Arkel.

Q. Mr. Applegarth, I take it from your testimony yesterday that the Detroit Publishers Association has no financial responsibility in the sense that it has any treasury sufficient to pay off any damage suits that might be brought against them?

A. Well, it is a non-incorporated association and if I remember my law, the members are individually liable.

Q. But the Association as such has no available treasury?

A. That is correct.

[2327] Q. And the funds which you have on hand at any given time are merely what are needed to run the business of the Association at any particular time?

A. That is correct.

Q. Now, you described, Mr. Applegarth, the use by the Typographical Union and the Mailers Union in 1945 of Conditions of Employment; for what period did the Union claim that they were operating under Conditions of Employment?

A. I can't remember, Mr. Van Arkel, whether Mr. Randolph and the Executive Council were here in February, March or the first part of April, it was somewhere along there and within a few days after that, so it is either from March until the end of October; or April until the end of October, a period of roughly four or five months.

Q. Now, at that time there was no law in Michigan which prohibited closed-shop agreements, was there?

A. There was not, not to my knowledge.

Q. And, of course, the Federal law at that time did not prohibit closed-shop agreements, did it?

A. No.

Q. Would it be accurate from your testimony to say that the posting or adoption by the Union of these Conditions of Employment had been preceded by bargaining in good faith?

A. In 1944 and 1945, I presume you are referring to?

Q. Yes.

[2328] A. Yes.

Q. And it was after—

A. (Interposing) May I amplify that answer?

Q. Sure.

A. Not with relationship to the Conditions of Employment itself, which were the unilateral acts of the Union.

Q. Yes.

A. But efforts had been made to negotiate a contract to succeed the one which expired in October of 1944. Your query is in the light of the St. Petersburg Decision whether the demand for the Union laws as a package, what effect that had upon the bargaining?

Q. Yes, but in any event, I take it from your testimony that there had been an impasse reached in your bargaining negotiations before the Union undertook to adopt Conditions of Employment, had there not?

A. That impasse was, in my opinion, principally because of the 1946 laws problem; there was the wage difficulty at that time that appeared somewhat insurmountable. Bear in mind, I was not present in the 1944 negotiations.

Q. Yes.

A. My first personal contact was, as I stated, when the meeting was held at the time Mr. Randolph was here.

Q. But on those two issues, I take it in the previous bargaining an impasse had been reached, one with respect to wages [2329] and, two, with respect to incorporation of the laws, is that correct?

A. I can speak with respect to the incorporation of the laws; I can't speak with respect to wages. There was a commitment by the Publishers for $3.00 which subsequently was the basis for settlement for that period.

Q. Yes.

A. That $3.00 was paid, so I don't know personally whether there was an impasse on wages or not. I simply know that stabilization caused some difficulties.

* * *

[2330] * * * Q. (By Mr. Van Arkel) Let me ask this question then: Mr. Applegarth, whether or not an agreement had been reached on the $3.00, was it your understanding that you could not pay $3.00 additional because the matter had not been approved by the Wage Stabilization Board?

A. We would not — will you read me the question: I want to be sure that I understand it.

(Question read.)

[2331] A. That is one reason. Another reason was that there was no intent to pay a scale increase without a contract.

Q. Now, you testified, I believe, that during that period no difficulties arose out of operating under Conditions of Employment, did you?

A. The intent of my testimony there, Mr. Van Arkel, was that no situation arose between us that brought, as I said, a collision because of a variance between Conditions of Employment and the terms of the old contract. We had difficulties in operations in the spring of 1945 in the mail room.

Q. Before the Conditions of Employment were adopted or after?

A. They were hand-maidens, they came at about the same time. I have got to go 'way back in my recollection here, when — I do not know how material this is, but this is the best of my recollection at the moment, when the impasse came or about the time the impasse came with respect to the inclusion of the 1945 laws in the contract, the Mailers' Union who had during the war period issued a large number of permits, thereby enabling persons who were not full members of the Union to work in the room or rooms withdrew those permits. Now, the detail of that, I do not remember, but there were production difficulties and interruptions that I was not referring to. I was referring in that prior testimony, I was referring to the fact that we both maintained our positions. We saying. "It is the status quo." The Union saying: "It [2332] is Conditions of Employment." Without having to settle that issue.

Q. So, would it be accurate to say that you by insisting that the old contract remained in effect and the Union by adopting Conditions of Employment each retained the position which you had taken in the collective bargaining negotiations which had occurred in late 1944?

A. Not quite, Mr. Van Arkel, because the Union, to the best of my knowledge, did not take the position in those negotiations that Conditions of Employment were the basis of operation. So far as I know, the parties mutually maintained the status quo up until the Randolph

session and until the adoption by the Union of Conditions of Employment. Thereupon, the Union said: "From here on in we are operating under Conditions of Employment." And we said, "No, we are maintaining the status quo."

Q. But what I would like to get is, in your negotiations you had been unable to agree on this matter of being governed by the laws of the Typographical Union?

A. That is correct.

Q. That is correct, isn't it?

A. That is correct.

Q. And you by saying that the old contract continued on, in effect rejected that position?

A. The rejection was positive from that statement made [2333] correlative.

Q. The Union by its adoption of Conditions of Employment insisted on its position that the laws did continue to govern, is that correct?

A. That is correct.

Q. So that you were each then during this period that you operated under Conditions of Employment, in effect, maintaining the position with respect to incorporation of the laws that you had taken during the bargaining negotiations?

A. Each party maintained its position.

Q. Now, had this issue of the recognition of the laws of the International been a problem which had previously arisen in Detroit?

A. Not to my knowledge. The Detroit contract included in it for many years either verbatim or in substance many of the International laws.

Q. Well, had previous agreements contained the usual clause that the laws of the — the General Laws of the International Union not contrary to the Agreement should govern relations between the parties not specifically covered by the Agreement?

A. No, that was the difficulty. The only reference in the contract, the previous contracts that I have seen or have ever heard about was that the Union Laws, the General Laws of the ITU, shall not be subject to arbitration in the Joint Standing Committee Clause; there had been no recognition of the [2334] Laws, it was for the first time, now whether or not that had ever been a Union proposal and rejected, I cannot tell you. It had never been a Union proposal and accepted and the impasse was reached when

the Union said: "We insist that such a clause be incorporated in the contract."

Q. Now, do you know whether or not it was the position of the American Newspaper Publishers Association at that time that such clauses should not be included in agreements?

A. When you say position of the, let us say, NPA, to shorten it —

Q. Sure.

A. To whom are you referring, Mr. Dale's office in Chicago which is the Special Standing Committee or action of the board of directors of —

Q. (Interposing) I was thinking particularly of Mr. Dale's office but I assume that his position was not different from that of the Executive Committee of the Newspaper Publishers Association?

A. Sometimes it is. The only thing I can say with respect to that is this, Mr. Van Arkel: I remember attending a conference in Chicago of a group of Publishers sometime in the summer — it was just after the Union here adopted Conditions of Employment because I remember we read them on the train going over, at which that matter was discussed. To the best of my knowledge, Mr. Dale's office takes no official position, [2335] although it gives advice. Mr. Dale's statments were that it was inadvisable to incorporate such clause in the contract, there isn't any question about that.

• • •

[2337] • • • Q. (Interposing) In late 1944 and early 1945 had there been discussions between the Newspaper Publishers Association and the Typographical Union with respect to this matter of the off-day that you testified about yesterday?

A. The amendment of the laws in 1945, I think I am correct on this, to specifically provide that work on the off-day [2338] would command the overtime rates was the basis for, a major basis, not the only basis, a major basis, for the objection to the laws, because it incorporated into our conditions, working conditions, a provision that had not theretofore been present.

Q. But had that matter been the subject of any discussions or negotiations between your organization and the Local Union?

A. You mean the payment for overtime on the off-day apart from it as an issue, apart from the laws issue?

Q. Well, or as a part of the laws issue.

A. Well, it was discussed at length as a part of the laws issue, whether it was discussed prior to that time as an issue by itself and a request by the Union for such a provision in the contract, I do not know.

Q. Well, would it be correct to say that during those negotiations you maintained the position that you did not want to pay for that day off and the Union insisted that they wanted pay for that off-day?

A. That is completely accurate.

Q. And again by your maintenance of that position you were operating under the old Agreement and by the adoption of Conditions of Employment by the Union you continued after negotiations had concluded to maintain your respective positions, did you not?

A. That is right. And no occasion arose where a man worked [2339] on the Off-day so that we had to resolve that issue, that was avoided.

• • •

Q. Was that matter finally settled, Mr. Applegarth?

A. What do you mean by "that matter"?

Q. This question of payment for the off-day.

A. Yes, we accepted the 1945 Laws in the fall of 1945.

[2340] Q. Do you know whether or not The Detroit Free Press changed its starting time to correspond with the Conditions of Employment which the Union adopted?

A. It seems to me it did change its starting time, I remember vaguely some discussion about it, whether that was in conformity with the Conditions of Employment or to avoid running into a problem, I cannot testify, I do not know.

Q. Now, at any time during your negotiations in 1947 or 1948, Mr. Applegarth, did the Union ever propose, either the Mailers' Union or the Typographical — did either the Mailers or the Typographical Union propose operation under Conditions of Employment?

A. The Unions' letter of September 17 so proposes.

Q. You are now referring to Board's Exhibit 36-F?

A. I do not know the number.

Q. I will tell you that it is.

A. All right. The second numbered paragraph.

Q. Yes. Now, did the Union ever follow that up by presenting you with Conditions of Employment filled out?

A. No, but in either the first or second meeting, or both, Mr. Burns spoke of Conditions of Employment and I asked if they were subject to discussion or negotiation, rather, and I was told that they might be discussed but they were not a matter for negotiation. I was never handed a document nor were any of my Publishers, saying: "Here are the Conditions [2341] of Employment".

Q. The only written proposals that you received from the Union were in contract form, were they not?

A. The only proposal that I received from the Union is the one in evidence as P6a.

Q. Now, in the letter of September 17, to which you just referred, Mr. Applegarth, you will notice the phrase that the Detroit Mailers' Union submits the following two proposals for your consideration as our present offer in collective bargaining. What was your understanding of the use of the word "present" in that letter?

A. My interpretation of it was that is was a carefully selected word to preserve the Union's position that they were bargaining.

Q. Did you infer from that that this was not necessarily the final position of the Union?

A. They so told me that orally that they wanted to bargain as far as the law required.

Q. That is at the meeting of the 17th?

A. Yes, and subsequently.

Q. And in fact they did subsequently to this letter present the Agreement in the form of P5a?

A. Yes.

Q. At any time did the Union suggest that the Publishers might post their own conditions of Employment? [2342] A. They did.

Q. Do you recall when they made that proposal, Mr. Applegarth?

A. I think it was mentioned in the first meeting it was mentioned subsequently; it was mentioned by Mr. Randolph.

Q. When that proposal was made that you post your own Conditions of Employment, what was your understanding as to the circumstances under which they should be posted; I mean by that, was it your understanding that such Conditions would be posted only after some negotiation with the Union?

A. Does the question ask my understanding?
Q. Yes.
A. The matter was not the subject of my discussion because I rejected the notion of unilateral action by either party.
Q. But insofar as a proposal was made, was it your understanding that they should be posted by you without any discussions by or with the Union?
A. It was pretty clear that the Conditions would have to be wholly acceptable to the membership or we would not have any employees.
Q. Yes, so I take it from that answer that you understood that those Conditions of Employment would be adopted by the Employer only after in discussion and negotiation you had been satisfied that those Conditions were acceptable to the Union, is that correct?
[2343] A. I think so.
Q. Now, was it conversely also true that if the Union were to adopt Conditions of Employment that that would be as a result of negotiations, discussions and some indication that those Conditions were acceptable to you?
A. Not quite. The Conditions of Employment, as I understood the discussion, were a matter to be determined by the Union. They hoped to obtain from us a statement of our thinking so that they might take that into account but they would determine what was to go into those Conditions.
Trial Examiner Leff: So far as the economic terms of your relationship were concerned, did you have the impression that the Union was willing to discuss them fully with you and obtain your reaction before posting Conditions of Employment? I mean, on things such as wages, vacations, holidays?
The Witness: Well, the object of the Union was to obtain from us our thinking but not to negotiate with respect to and arrive at an agreement with respect to anything that was to go into the Conditions.
Trial Examiner Leff: You mean arrive at a written agreement? What do you mean "agreement"?
The Witness: Arrive at a meeting of the minds.
Trial Examiner Leff: What would have been the purpose of discussions and negotiations if the negotiations were only to arrive at some meeting of the minds?
[2344] The Witness: To find out how far we could be pushed. By that I mean, I mean this: If I were to say

that we might give favorable consideration to a wage increase of 10 per cent, they might be pretty sure that they could get by with 12½ per cent increase.

• • •

Q. (By Mr. Van Arkel) If, to take the illustration you just used, Mr. Applegarth, the Union had adopted Conditions of Employment calling for a 12½ percent increase, you would have had to pay that in order for them to receive it, I take it?

A. We would have had to pay it or they wouldn't have worked.

Q. And did you understand that any discussions with reference to that matter would be exploratory to find out whether or not you would be willing to pay if it were adopted by the Union?

[2345] A. Exactly.

Q. Now, referring to Board's Exhibit 36-G, Mr. Applegarth, which is your letter of September 29th which posted three questions to the Union at the end.

A. Yes.

Q. At the end of the letter, that was discussed, you stated at a meeting of October 8?

A. That is right.

Q. Now, with reference to the first question: "Does your Local Union intend to comply fully with ITU collective bargaining policy?"

• • •

[2346] • • • Q. Was the same also true of the second question: "Would you agree to a contract, verbal or written, signed or otherwise, to take effect between us at the expiration of the present agreement?"

A. They answered that in the affirmative, saying: "If we can negotiate a contract that is satisfactory, we will sign it."

Q. Now, with respect to the third question, was that at the meeting of October 8 that that was answered affirmatively, Mr. Applegarth?

A. Yes.

Q. Now, with respect to the third question: "Whether it be by contract or unilateral promulgation, isn't it true that your Union must insist upon the Standard Conditions of Employment described by the ITU, as the conditions under which your members will work after the expiration

of the present agreement'' ? Did you receive any answer to that question?

[2347] A. Yes, they said that they had local autonomy, that they were conducting the negotiations, that they could make an agreement.

• • •

Q. Well, I take it your question was essentially, was it not, whether the Union must insist upon the Standard Conditions of Employment prescribed by the ITU, was it not?

A. That is the question, part of it, the question begins: ''Whether it be by contract or unilateral promulgation, isn't it true that your Union must insist upon the Standard Conditions of Employment prescribed by the ITU''?

A. Well, the Conditions of Employment were not a contract?

A. No, that is correct.

Q. So that, would it be fair to say that the Union's answer to that was a clear ''No,'' that they were not required to insist upon the Standard Conditions of Employment?

A. Yes, I think that would be true.

[2348] Trial Examiner Leff: I am confused at this point — I do not know in what sense you mean Standard Conditions of Employment; do you mean the Standard Conditions of Employment form or do you mean the Standard Conditions on which the Union had indicated its collective bargaining policy and was willing to work under, whether incorporated in a contract or not?

The Witness: That was the very reason I called attention a moment ago to the use of the word ''contract''. The Union did not say: ''It is the Conditions of Employment or nothing.''

Trial Examiner Leff: What I mean is that your answer wasn't clear.

You go back to Mr. Van Arkel's last question and the witness' answer.

(Record read as follows:)

''Q. So that, would it be fair to say that the Union's answer to that was a clear 'No,' that they were not required to insist upon the Standard Conditions of Employment?

''A. Yes, I think that would be true.'')

The Witness: I took it Mr. Van Arkel was referring to Conditions of Employment form. The question, I think is broader than that.

Q. (By Mr. Van Arkel) The Conditions of Employment as you [2349] used it in that question, then did that also refer to the Conditions of Employment provided by the General Laws of the International Union?

A. No, I don't quite understand the import of your question. This doesn't has no reference to laws.

Q. The General Laws of the International Union did, of course, specify certain conditions of employment, did they not?

A. Yes.

Q. And historically have?

A. That is right.

Q. Now, what I was wondering is whether in your use of the phrase in that third question you were also referring to Conditions of Employment which were prescribed by the General Laws of the International Union?

A. Only insofar as they are incorporated in that Conditions of Employment form.

Q. I see. So that the phrase as used here in this third question referred to the Conditions of Employment form, is that right?

A. Yes, and perhaps the reason my answers are not clear is this letter, I believe, was written before the time P6a was developed, and the only thing at that time generally prevalent was Conditions of Employment.

Q. Had you heard prior to that, prior to the writing of that letter, that something in the nature of a Form P6a had [2350] been developed for submission?

A. I do not believe prior to that letter, no. I think that came subsequently. This letter was written September 29.

Q. Had you heard about it prior to the meeting of October 8th?

A. No.

Q. You had not heard that some proposals had been presented in Baltimore?

A. If those proposals were presented at Baltimore at or about that date, I probably heard about it, but I don't recall when the Baltimore proposals were presented.

Q. September 29, because I was there.

A. Well, since the letter is lengthy, it was prepared probably on the 27th or 28th, although I sent it on the 29th, I hadn't heard.

Q. I was asking specifically about the meeting October 8, whether you had heard before then?

A. I imagine I had, although I don't tie it in to that meeting of October 8th except to this extent: It was at the meeting of October 8, the second meeting, that I said I would give further consideration to a counter — to a proposal, and I was given to understand that if — for the first time that if I proposed the Union would counter-propose; before the development in Baltimore I was of the opinion that the Union would not counter-propose because it couldn't. Then I was [2351] assured they would counter-propose in that meeting and that led to my preparation of a proposal, the subsequently submitted proposal of October 13th submitted the 16th.

Q. Now, referring to the proposal which you submitted on October 16th, Mr. Applegarth, Board's Exhibits 36-i and 36-J, I note that they contain this proposal: "If any provision of this Agreement shall be invalid or violate the provision of any Federal or State law, the remainder of the Agreement shall not be affected thereby. Had that proposal appeared in any advice which you had received from the American Newspaper Publishers Association?

A. I can't tell you at the moment where it came from. I am not the father of the idea of the savings clause. One had been, I think, one had been proposed and accepted and I believe along these lines, not by the ITU, in Seattle. I don't remember which Union was involved and I think that is where this came from. There was a discussion either in articles in Editor and Publisher, to whom they might have been attributed, I do not remember. Another thing, that said that the incorporation of a savings clause was advisable and that merely coincided with my own thoughts because back in July I had expressed that opinion.

Q. You do not know whether Mr. Hanson had proposed the incorporation of such a clause in the Agreement?

A. I think he had, yes, but so had I. I proposed it long

[2352] Q. (Interposing) I understand, but so far as the language is concerned, might it have come from advice received from Mr. Hanson?

A. No, I don't believe so because I think that language is almost identical with some that I incorporated in the Teamsters contract in August.

Q. Now, with respect to that proposal of October 16th, did the Union make any objection to changing the language of the Agreement wherever it said "member" to substituting the word "employee"?

A. No, not that I recall.

Q. Did they state that they would have no objection to making that change?

A. I don't recall that we discussed it in much detail. It was my impression that that was not objectionable —

Trial Examiner Leff: (Interposing) When he refers to the proposal of the 16th, I take it he is referring to Exhibit 36-i?

Mr. Van Arkel: It is marked October 13th but —

The Witness: But it was sent on the 16th.

Mr. Sinsheimer: That applies to both Exhibits 36-i and 36-J.

Mr. Van Arkel: That is right.

Q. (By Mr. Van Arkel) That was still in negotiation?

A. That is right.

[2353] Q. Did the Union object at any time to striking out the first sentence of Section 4 of the old Agreement which read: "The party of the first part hereby agrees to employ only members of the Detroit Typographical Union in good standing to perform composing room work . . .?"

A. Well, I recall no objection to that deletion.

Q. Did they state that it was their understanding that the Law prohibited a closed-shop agreement?

A. Yes.

Q. And that it would be illegal to enter into an agreement whereby the Detroit Publishers agreed to hire only Union members?

A. Yes.

Q. At any time in the negotiations which you had with them, Mr. Applegarth, did they propose or insist on the inclusion of any such clause which required only hiring of — the hiring of only Union members?

A. No.

Q. Now, was the same true with respect to Section 5: "The Union hereby agrees to furnish at the scale of wages and under the condition provided in this contract such numbers of members as may be required by the party

of the first part for the operation of their composing room"?

A. I don't recall that we discussed that. I explained that I struck that because in view of the illegality of a closed shop, an obligation on their part to furnish might be construed [2354] in violation of the law, and, therefore, had been stricken. I do not recall that we —

Q. (Interposing) Did they object to that or did they agree with your point of view on that?

A. Well, they didn't agree with my point of view.

Q. I understand: I mean, did they accept your statement that that might be illegal?

A. I think they did.

Q. At that meeting did the Union ask for any discussion of wages?

A. They asked for a discussion of wages at that and every other meeting, I believe.

Q. And your position throughout was consistent that until a framework of an agreement can be arrived at, you were not prepared to discuss wages?

A. That is right.

Q. Was there any objection on the part of the Union to the striking of Section 17: "If the Union fails to furnish a sufficient number of competent members, the party of the first part may employ any members of the International Typographical Union, and so forth"?

A. As I recall it, Mr. Van Arkel, the Union didn't specifically, section-by-section, pick my proposal apart; they simply said that it was not a basis from which we could operate, and as a matter of fact, other than my presentation of [2355] it and the general statement that this wouldn't do, our discussion was not very deep. They listened to me and said: "We will counter-propose." And, as a consequence we did not go into much detail.

Q. You did go through and explain the changes which you had made?

A. I did.

Q. Did they make comment as you went through?

A. Some comment, yes.

Trial Examiner Leff: Did they express any particular objections?

The Witness: Well, they objected that I had gone too far when I took out the "struck work" clause, for example; that it provided no Union security whatsoever. And

my answer was, "I have left that for discussion." I said that it was a year's contract and that was not acceptable. Their criticisms were more—what I am saying is their criticisms were more of a general nature, although we did touch these points.

Q. Now, with respect to Section 41 —

• • •

[2356] • • • Trial Examiner Leff: Do you have a bogus clause?

The Witness: Yes.

Trial Examiner Leff: What is its number?

The Witness: Section 25 of the proposal, printed Page 10.

Trial Examiner Leff: Is it fair to assume in view of the fact that you did not delete that clause that you had no [2357] objection to it?

The Witness: My statement with respect to that was this: I don't know whether the bogus or reset clause is in violation of the Act or not; we are not seeking to take from you in these negotiations things that are not in violation of the Act, and I am leaving that in in view of my savings clause which protects the rest of my contract in the event that it turns out to be in violation.

• • •

Trial Examiner Leff: I want to get back to bogus. Do I understand your answer to mean that you had no objection to the bogus clause provided that it was not illegal?

The Witness: Well, we had objected to the bogus for a good many years.

Trial Examiner Leff: In the terms of this proposal?

[2358] The Witness: I said, I am not taking the bogus out at this time because I do not know whether it is legal or illegal. Bogus has been in our contract for a long time and it would be a difficult matter to negotiate it out. As a practical thing, that does not mean that I left it in because we like bogus. It has been in there and it looked to like too big to hurdle to try to get around and I did not want to raise a Taft-Hartley issue with respect to it, if I had a savings clause to protect me in the event that it turned out —

Trial Examiner Leff: (Interposing) This amounted to an offer to include bogus, does it not?

The Witness: Not to include, but to leave it in, it has been —

Trial Examiner Leff: (Interposing) What is the difference there?

The Witness: Well, I mean, substantial difference; if there were no bogus in there and their proposal was bogus, I would have resisted, but they have had bogus for a good many years and I was not seeking to get back something that they had succeeded in negotiating many years ago.

Trial Examiner Leff: Up to the time this was submitted you had no formal offer or contract proposal from the Union, did you?

The Witness: No.

Trial Examiner Leff: This was the first offer that was [2359] made?

The Witness: That is right.

Trial Examiner Leff: And you did include bogus?

The Witness: I did.

Trial Examiner Leff: So that was a part of the offer.

The Witness: What I did was offer the old contract with only such — aside from the machinist manning clause, with only such changes as I deemed necessary to meet the requirements of the Taft-Hartley Law. In view of the many problems that confronted us and the difficulty of our negotiations, I made as few changes as possible in; hope of arriving at a settlement, not because I like a lot of clauses in here. If we had been in free negotiations, I might have proposed a lot of other changes.

Q. (By Mr. Van Arkel) Had you in any previous years made any proposals for the elimination of the bogus clause, Mr. Applegarth?

A. I can't answer that, Mr. Van Arkel. My knowledge only goes back to 1945; bogus has been a sore point. That, I know from discussions with my Publishers and my predecessor, and we made a change in the bogus clause after some very heated discussions in 1945.

Q. As to the type of matter which required re-setting?

A. No, as to time. There was a provision in there, I think, I have forgotten the details, but after a certain length of [2360] time if matter was not re-set, it was thrown away. They insisted upon that being taken out and we resisted strenuously and lost the argument.

Q. But had you at any time prior to 1947 during negotiations you had, proposed the entire elimination of the bogus clause?

A. I had not, whether prior to 1945 such a proposal was made, I do not know.

Q. You had not heard that at any time the Publishers had proposed a complete elimination?

A. No.

Q. Now, at Page 8 of this proposal, Mr. Applegarth, I note that you struck the end of that.

A. Will you give me the section number?

Q. Section 48-b, Page 8, I notice that you struck out the proviso at the end: "Provided, Local Unions Laws not affecting wages, hours or working conditions and the 1947 General Laws of the International Typographical Union shall not be arbitrated." Now, on striking that, was it your thought that it was — that if it was accepted by the Union that that would result in Local Union and General Laws being arbitrable?

A. I presume that it would. My reason for striking it was the same as I struck the acceptance of the Laws, that I was afraid it violated the law.

Q. Well, did you understand that there was anything in the [2361] Taft-Hartley Law which required that those matters be the subject of arbitration?

A. No, and as a matter of fact, I think I indicated very quickly a willingness to reincorporate that. That perhaps I had been over-cautious, although I am frank to say that I would like to negotiate it out of the contract.

Q. But for practical reasons, not because of the Taft-Hartley Law?

A. That is right. I struck it originally thinking it violated the Taft-Hartley Law, but on reconsideration was willing to admit that I had perhaps gone further than necessary.

Q. Was it your understanding that there was anything in the Taft-Hartley Act that required any particular matter be subject to arbitration?

A. No.

Q. Had you in any previous negotiations made any proposals which would have resulted in the limination of that clause?

A. I don't recall whether in the 1945 Laws argument we proposed the elimination of it or not; I do recall this kind of an argument with respect to its interpretation and that was one I never completely understood, I am frank to admit. That the clause was originally incorporat-

ed simply to avoid arbitrating out of a contract any clause therein contained which was in fact a copy of a law — now I am not going to try to explain that because I don't understand it.

[2362] Q. Well, many of the General Laws of the Union are — have been traditionally incorporated verbatim in collective bargaining negotiations, have they not?

A. Correct. Correct.

Q. And I am sure that I got an exact answer to the question, Mr. Applegarth. In any negotiations in which you had participated prior to 1947, had a proposal been made by the Publishers that that clause not be included in an agreement?

A. My recollection on that point is a little hazy, I don't — I have no distinct recollection that we did, although we may in the argument over the 1945 Law have proposed its elimination; I am not sure that we did. To my knowledge, I cannot testify that I specifically know that we ever proposed to eliminate it, no.

Q. You are quite certain that you had not proposed that in 1946?

A. Yes, I did not propose its elimination in 1946.

Q. Now, at Page 9, Section 49(g), I notice you struck the clause, struck these words: "Pursuance of International Union course of Lessons in Printing." Was it your understanding that there was something in the Taft-Hartley Act which made it illegal, which made that clause illegal?

A. Well, I struck everything that even looked towards a closed-shop condition. That was a part of my theory. If you [2363] will look at my December 30 proposal, you will see that I left it in. I struck it originally, perhaps out of an abundance of caution and not because I object to their course in printing, of course; and I subsequently put it back. We had no discussion about it.

Trial Examiner Leff: May I interrupt your examination. I think this might be an appropriate time for me to clear up something that I have been a bit doubtful about:

I would like to know something about how your apprenticeship system operates and when an apprentice is hired, who does the hiring?

The Witness: The foreman.

Trial Examiner Leff: Does the foreman represent management?

The Witness: He is supposed to.

Trial Examiner Leff: Yes. Is the Union's consent necessary before an apprentice is hired?

The Witness: I think there is a specific provision on that.

Trial Examiner Leff: I am talking about the practice.

The Witness: Well, I am not familiar with that practice. I don't know who hired the apprentices that we have hired since I have been in the picture.

Trial Examiner Leff: At any rate, an apprentice does not have to be a member of the Union at the time he is hired?

[2364] The Witness: That, I can't answer. Mr. Sparkman can clear that up, perhaps, for you very easily.

Trial Examiner Leff: Does he become a member immediately, or does he become an apprentice member at the end of the first year?

The Witness: Again, I can't answer the question.

It is my impression that — and I have had no contact with the practical operation of the clause — it is my impression that when an apprentice was to be hired he had to be acceptable to the foreman, and likewise he had to be acceptable to the Union. And that he immediately obtained some sort of Union membership. Now, what that was, I don't know.

Trial Examiner Leff: You would prefer that questions be answered by someone more familiar with the practice?

The Witness: Yes, frankly I have got to guess.

Trial Examiner Leff: We do not want you to guess. I will reserve it for another witness.

Q. (By Mr. Van Arkel) In any event, on reconsideration, Mr. Applegarth, did you conclude that it was appropriate to retain in the Agreement the language of Section 49(c), (e), and (g)?

A. In the December 30th proposal, so far as Section (c) is concerned, I still struck the words: "shall be registered on the books of the Union" because I interpreted that to be a part of Union membership.

[2365] A. Yes.

Q. But what were the other two?

A. I was thinking of the language in Section (e).

A. I left (e) without change.

Q. And (g), similarly?

A. Right.

Q. What did you do in the December 30th proposal, Mr. Applegarth, with respect to the last paragraph of Section (h) and Paragraph (i)?

A. I struck the last paragraph of Section (h), simply as being no longer applicable. That had nothing to do with the Taft-Hartley Law.

Q. Yes?

A. Such apprentices who came under that clause had returned.

Q. Yes?

A. It became surplusage. Did you ask about (j)?

Q. I asked about (i).

A. In (i) I struck the first sentence and the last phrase: " . . . and being issued an apprentice card by the Union."

Q. And allowed the rest of the language to remain?

Trial Examiner Leff: In (i)?

The Witness: Yes.

A. (Continuing) So that as changed it would read with just one sentence: "No apprentice will be allowed to start work in any office without first being examined by apprenticeship [2366] committee."

Q. That was because of the Taft-Hartley Act?

A. That is right, the deletions were because of the Taft-Hartley Law.

Q. Now, do you have before you a copy of the counter-proposal made by the Union, Mr. Applegarth?

A. The Typographical or Mailers?

Q. I happen to have the Mailers' agreement. I wanted to —

A. (Interposing) There were some variations.

Q. I wanted to go over those Clauses (a) to (i).

A. Then I can use either. Yes.

Q. Now, just run through these clauses briefly. I take it that so far as the Preamble was concerned, you objected quite strongly to the provision that the Agreement might be terminated by either party by written notice of 60 days?

A. Correct.

Q. Was that because of anything in the Taft-Hartley Law?

A. Partially, although basically if the Taft-Hartley Law had not been on the books, my objection would have been equally as strenuous, I will admit.

Q. Yes.

A. I will admit, partly for this reason — it would allow termination for Taft-Hartley reasons that perhaps contracts shouldn't be terminated, at least in our opinion.

Q. If that were done, that would be a risk taken by the [2367-2377] Union, would it not?

A. That is right, but it still puts us out of business.

Q. Pardon?

A. But it still puts us out of business.

Q. Well, true enough, but insofar as there would be any liability because of any improper use of the 60-day cancellation clause, the burden of that would fall on the party exercising the right to terminate, would it not?

A. I will concur in your legal conclusion, which it is. I do not think of any situation at the moment where the other party might be liable, although there is — I would want to think about it.

Q. Was this the first time that you had received any proposal for an agreement of less than a year from either the Mailers' Union or the Typographical Union?

A. A proposal for an agreement of less than a year? Your question doesn't have any reference to the 1945 hiatus, does it?

Q. I will have to find out if it does. Specifically, during the wage stabilization period, Mr. Applegarth, had the Typographical Union or the Mailers' Union asked for a cancellation clause on 30 or 60 days' notice so that they might come in for a wage increase in the event they terminated?

A. I was not in on those negotiations, they may have proposed, during the wage stabilization there were frequent opening [2378] clauses used where a contract would be signed provided that by stabilization rules they could open, I certainly wouldn't say that they did not so propose. I did not participate.

• • •

[2380] • • • Q. (By Mr. Van Arkel) Now, with respect to Section (b), Mr. Applegarth?

A. Yes.

Q. "The party of the first part recognizes the right of the party of the second part to formulate laws, rules and decisions for conditions under which its members may seek or accept employment and agrees there shall be no interference whatsoever in the observance of such laws, rules and decisions, nor shall any issue be raised or complaint considered except in event such laws, rules or decisions conflict with the terms of this Agreement." Did you object to that as raising a problem under the Taft-Hartley Act, Mr. Applegarth?

A. No, I didn't like the clause as a practical matter?

Q. What was your practical objection, was it the incorporation of the General Laws?

A. No, as I said, that having accepted the General Laws, that I considered that enough and so far there had been no necessity for such a clause heretofore and I saw no need for such a clause now because of the Taft-Hartley Law. And we are, as are Unions, reticent to accept new clauses because we [2381] think that there is a catch in them some place.

Q. Yes. With respect to (c); that is the clause that you testified about earlier, that there had been difficulties about in 1944 and 1945?

A. The forerunner of that, yes.

Q. The what?

A. The forerunner of this clause; the 1945 simply referred to the 1945 Laws, and this is simply changing it to 1947.

Q. Such a clause or similar clause had been contained in your previous Agreements, is that correct?

A. That is correct, since 1945.

Q. Now, since —

A. (Interposing) Since 1946, rather.

Q. Yes. Was the language "not in conflict with law" new in the Union's proposal?

A. It was.

Q. Did the Union explain that that was included because of the Taft-Hartley Act?

A. It did.

Q. With that explanation did you have any objection to the clause other than the practical objections which you had previously voiced?

A. I accepted it.

Q. You did accept it finally?

A. That is in my December 30 proposal.

[2382] Q. I see. Now, with respect to Paragraph (d), did you raise any objection to Paragraph (d) under the Taft-Hartley Law?

A. Sometimes it is difficult for me to remember whether I expressed the objection or whether I didn't, Mr. Van Arkel. We objected to it on the ground that it provided a method for retaining closed-ship conditions. Now, how I said that I don't remember, because they could define who was a journey-man and who wasn't, and it made it possible for discrimination.

Q. Now, did the Union explain or did the Union state anything with respect to whether or not there was any relation between the phrase "journeymen and apprentice mailers" and "Union membership"?

Let me ask the question this way, Mr. Applegarth: Was there any discussion with respect to the question of whether journeymen and apprentice mailers meant "Union members"?

A. Not very much that I recall at the moment, although they indicated that it meant competent people, not "Union members".

Trial Examiner Leff: Do we have that in evidence, that paper that Mr. Van Arkel is reading from? I understand it is the P6a form.

Mr. Van Arkel: We did not introduce this since the clauses are identical.

Trial Examiner Leff: Except the one that you are reading differs in that the word "mailers" is substituted for "printers." [2383] The form P6a put in evidence referred to printers. Is it identical?

Mr. Van Arkel: It is.

Mr. Sinsheimer: I have a number of them.

Trial Examiner Leff: Could it be stipulated that the language is exactly the same, except that wherever the word "printers" appears, "mailers" is substituted in the form that was submitted for the mailers?

Mr. Sinsheimer: I believe that is correct.

The Witness: Yes.

Mr. Van Arkel: That is correct.

• • •

[2384] • • • Q. (By Mr. Van Arkel) Well, now, was there any discussion of the language, the words: " . . . what work has been traditionally performed by journeymen and apprentice mailers"?

A. I don't recall any specific discussion. I accepted that to mean the understanding we had. We have a pretty full definition in the Mailers' contract of their functions.

Q. Well, did the Union explain that the reason for this was, for the inclusion of this clause, was that in order that the Employer might not take work which had been traditionally done in the mail room and give it to some other department?

A. Well, the Union—yes, the Union many times said that "We don't want you to assign our work," and my answer was, "We have no intention of so doing." But whether when we had such discussion we were looking at exactly that language at the time, I cannot tell, but I understood that to be so proposed to protect their jurisdiction.

Q. That is Section (d)?

A. Yes.

Q. So that it was clear throughout these discussions that what the Union was seeking here was to protect the work which [2385] was performed in the mailing room, was it not?

A. Yes, only I thought the clause went further.

Q. Now—

A. (Interposing) Also, of course, we objected to the ten-day cancellation of that clause.

Q. But on a Taft-Hartley ground or a practical ground?

A. Practical, principally.

Q. Now, did you consider in that connection Section 44 at Page 3 of this proposal: "All handling of incoming and outgoing papers from pressroom through and including platform work, all Addressograph work in connection with mailing room operation, and all work now being performed by the Mailing Department shall be performed by journeymen and apprentice mailers." That that would fine what was traditionally performed?

Mr. Sinsheimer: That is in P6a by itself; perhaps we should put in the proposal.

Mr. Van Arkel: I think perhaps we should offer that proposal.

Mr. Sinsheimer: I might add, off the record, there, Mr. Van Arkel, that there is no counterpart of that clause in the Typographical contract.

Mr. Van Arkel: Suppose I ask that this be marked as a Respondent's exhibit.

Trial Examiner Leff: The last Respondent's exhibit [2386] number used was 11.

Mr. Van Arkel: I will ask to have this marked as Respondent's Exhibit No. 12.

(Thereupon the document above referred to was marked Respondent's Exhibit No. 12 for identification.)

Mr. Van Arkel: I will ask then that this document from which I have been questioning the witness which has been marked as Respondent's Exhibit No. 12 be admitted in evidence.

Trial Examiner Leff: I understand that Respondent's Exhibit No. 12 is a proposal which was submitted by the Mailers' Union to the Detroit Publishers, on what date?

Mr. Van Arkel: I believe that was submitted on October 23.

The Witness: That is correct.

Q. (By Mr. Van Arkel) Is that right, Mr. Applegarth?

A. That is correct.

Trial Examiner Leff: Just a moment. There being no objections to Respondent's Exhibit No. 12, the exhibit is received.

(The document heretofore marked Respondent's Exhibit No. 12 for identification was received in evidence.)

Mr. Sinsheimer: I have no objection.

So that the record may not be confused, Mr. Van Arkel, the printed document that you have in your hand differs from the exhibit which has been introduced; that was presented at [2387] a later date and includes the Mailers' proposal for scale which the proposal did not have.

Mr. Van Arkel: Thank you for pointing that out.

Mr. Sinsheimer: May we go off the record?

Trial Examiner Leff: Off the record.

(Discussion off the record.)

Trial Examiner Leff: Back on the record.

(Thereupon the document above referred to was marked Respondent's Exhibit No. 13 for identification.)

Trial Examiner Leff: I understand that you are offering in evidence as Respondent's Exhibit 13 a proposal

submitted by the Mailers' Union to the Detroit Publishers on or about October 30, is that correct?

Mr. Van Arkel: Yes, that is correct, Mr. Examiner.

Mr. Sinsheimer: In other words, Respondent's Exhibit 12 is the one submitted on the 23rd of October and Exhibit 13 is the one submitted on October 30, is that correct?

Mr. Van Arkel: That is correct.

Mr. Sinsheimer: The only difference between the two is that Exhibit No. 13 includes a wage figure and Exhibit 12 does not.

Mr. Van Arkel: I think that is correct.

Trial Examiner Leff: Respondent's Exhibit 13 has been offered, and there being no objection, Respondent's Exhibit 13 is received.

[2388] (The document heretofore marked Respondent's Exhibit No. 13 for identification was received in evidence.)

Q. (By Mr. Van Arkel) With respect to Section (e), Mr. Applegarth, of Respondent's Exhibit No. 12 by which the Employer agrees that the Union cannot compel members to work with non-Union mailers and apprentices and therefore agrees that any refusal by its workers to work with non-Union employees shall not constitute a breach of this agreement; first let me ask you about the first part of that: That the Employer recognizes that the Union cannot compel members to work with non-Union mailers and apprentices, in your judgment was that a correct statement?

A. Literally taken, yes.

Q. Now, first, was it in your judgment practically true, I mean by that, that the Union could not compel its members to work with non-Union men?

A. Yes.

Q. Second, was it, in your judgment, legally true that they could not compel such action?

A. That is right.

Q. On constitutional grounds?

A. Yes, on constitutional grounds and also the provisions in the Act itself.

Q. That is, you are now referring to Section 502?

A. I presume that is the correct number.

[2389] Q. The savings clause which states that nothing

in the Act shall be taken to require people to work against the consent of the worker?

A. That is right.

Q. Now, did you understand that the purpose of this clause was that in the event any difficulty arose out of that fact that the Union should not be held liable in damage suits for any difficulties arising out of the application of that clause?

A. That is what the clause says, but I interpreted it to have a broader meaning.

Q. And what interpretation did you give it?

A. And a further attempt as other clauses in the proposal were, to retain closed-shop conditions in direct—

Q. (Interposing) Did the Union state their position with respect to that matter?

A. Yes, they did.

Q. And do you recall what they said?

A. They didn't agree with my interpretation and said that it was to protect them from liability since it would be a matter beyond their control and I said: "But inferentially it means that you won't even make any effort, and that, we don't believe is right."

Q. Did they make any reply to that statement of yours?

A. They disagreed with it. I do not recall any specific reply.

[2390] Q. You don't recall the basis of your disagreement?

A. Only their statement that the clause was to protect them against liability and that my interpretation was not right.

Q. Was there any discussion of that problem, what the action of the Union would be as distinguished from the action of its members in the event non-Union men were hired?

A. I don't recall any discussion along that line other than statements that even if we told them to work they wouldn't.

Q. Well, are you now speaking of the members?

A. The Union said that if there were a non-Union man employed and, "If we told the members to work they probably wouldn't, because of their traditional feeling towards working only with Union membership." I don't remember the exact words but that is the impression I gained.

• • •

[2405] * * * Q. I guess we will leave it to the Examiner to answer that. Now, I take it, overall—first, let me ask this, did you have discussions with the Union about the circumstances under [2406] which they might invoke the right granted in the Preamble to cancel the Agreement on 60 days' notice or under which you might exercise the right to cancel?

A. We didn't discuss the right. The last one I can answer easily, we did not discuss the circumstances under which we might terminate because we never conceded a 60-day clause. So far as the Union's exercise of its right to terminate, we had some discussions, yes. Recognize the difficulty when I hop around this way, I have got to hop over about sixteen sessions to try to pick it out.

Q. Take your time.

Trial Examiner Leff: Yes.

A. One of our objections, of course, to the 60-day clause was that our scale was only good for 60 days and we said that: "If we could settle the scale with you today and you can give us notice tomorrow of reopening under the clause, it is wide open, and there we are again, we have accomplished nothing."

They said, "You know us better than that. We are not going to do that. But if you do something that we do not like, we can then terminate the contract and strike on any issue that we see fit, wages, if we like, but you don't need to fear our tampering with the scale if you behave yourselves."

Q. Now, was there any discussion as to the meaning of the words "If you behave yourselves"?

[2407] A. Well, I have used those words.

Q. Or "That we don't like"?

A. I have used those words here; I do not know that they were exactly used in these discussions. I think the words, "Upset the applecart", I now recall as having been and without specific statement, although some of them may have been made; it was clear that that meant that if we brought in some struck work or if we tampered with jurisdiction or if we hired a non-Union man, the clause might be exercised.

Q. Was there any discussion about the circumstances under which it might be exercised there—let me put it to

you this way, Mr. Applegarth: You stated that the Union, that is, the Union representative, had stated during these discussions, I believe, that they would be very foolish to strike in the event a non-Union man was hired; was some such statement made?

A. Yes—by circumstances, if we were forced to hire a non-Union man, they would be foolish to strike because it would be obvious that they would be striking in violation of the law and to compel us to discriminate and therefore they would be liable.

Q. Let me put this question to you specifically: Did they state that in the event that the circumstances of the bringing in of struck work or of changing jurisdiction or of hiring non-Union men were such as to indicate that the Publishers were interested in breaking the Union, that they [2408] would exercise the right to cancel?

A. Well, they certainly indicated that they would if those were the circumstances, but they didn't limit it to those circumstances that it was a willful intent to break the Union.

Q. But did they indicate that they would exercise it if the Employers' action might have that result?

A. That is my understanding, yes.

Q. That is quite apart from the Employers' intent. Did you, I believe you stated that with respect to all of the clauses that were contained in this counter-proposal, Mr. Applegarth, that the Union stated they believed these clauses to be legal?

A. That is absolutely correct.

Q. Did you have any reason for doubting their sincerity or good faith in thinking that they were legal?

A. I didn't doubt that they had been so advised.

Q. Yes?

A. And I might differ with the advice.

Q. Well, sure enough, but I mean, so far as the people with whom you were negotiating were concerned, did you feel that they were in good faith and sincerely felt that the advice which they had received was correct?

A. I had no reason to doubt their belief in the advice of their Counsel.

* * *

[2423] * * * WILLIAM MILLS, a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination.

Q. (By Mr. Martin) Will you state your name, please?
A. William Mills.
Q. By whom are you employed?
A. The Detroit Times.
Q. In what capacity?
A. Business Manager.

* * *

[2458] * * * Q. (By Mr. Martin) Mr. Mills, are you familiar with the duties of the foremen in your establishment?

A. I am.

Q. Particularly with reference to the composing room, I would like to know exactly what the duties of the foremen are?

A. The composing room, the foreman, as you call him, I would rather designate him as superintendent because that is the terminology in my particular room, has complete charge of the operation of the composing room.

Q. He has been a Union member?
A. He has been a Union member.
Q. And still is as far as you know?
A. And still is.

Q. And what are his duties with reference to hiring and discharging employees?

A. He hires and fires.

Q. Does he notify you before or after in the event a person is hired?

A. The notification comes to me in this way, we have a standard employment form that is filled out by the prospective employee. It is then approved by the superintendent who [2459] passes it on to me for final approval and is then sent to the Paymaster as notification of when his payroll starts.

Q. Do you know whether or not the man actually goes to work before you receive the notice or not?

A. Many times the man goes to work before I receive the notice.

Q. Is the procedure similar with reference to discharges or is it any different?

A. The procedure is exactly the same.

Trial Examiner Leff: You said before this form goes to you for final approval, I infer from that that you have authority to reject—or I will ask you if you ever do reject?

The Witness: It would be difficult for me to reject. When I say "final approval", I mean approval as to the rates of pay that he is to receive, the same as any other employee who is employed by the Times. For instance, he might be employed on a shift that would carry a scale different from another shift.

Trial Examiner Leff: Does your answer apply to apprentices as well as journeymen?

Mr. Martin: I was just going to come to that.

The Witness: It applies to every employee of the Times.

Trial Examiner Leff: Well, now, do you exercise any greater authority as to the approval or rejection in the case of an apprentice applicant?

[2460] The Witness: No.

Q. (By Mr. Martin) Has there been any change in the method of hiring or in the duties of the foremen since last August 22?

A. There has not.

Q. Are you familiar with the provisions of the previous contract with the Typographical Union with reference to apprentices?

A. Yes.

Q. Referring to Board's Exhibit 35-A, I call your attention to Section 49. I believe it refers to apprentices.

A. "An apprentice within the meaning of this contract is a beginner at the printer's trade, setting type and doing such other work as is required to learn the compositor's trade, done under instruction of a journeyman."

Q. I want to call your attention to Section (i) under that, wherein the Local Union reserves the right to refuse to register apprentices and so forth.

A. The Local Union reserves the right to refuse to register apprentices who, in the opinion of the apprentice committee, have not the proper qualifications to become

compositors. No apprentice will be allowed to start work in any office without first being examined by apprentice committee and being issued apprentice card by the Union.

Q. Has that procedure been followed, do you know?

[2461] A. So far as I know, it has been followed.

Q. Do they have a committee in Detroit with reference to apprentices?

A. They have.

Q. Is that committee composed of the Union and Management?

A. That committee there is a supervisory committee composed of both the Union and the Management; just what the functions of that committee are, I am not clear. I get an invitation to their banquets when they have one and sometimes attend; beyond that I know very little about the apprentice committee.

* * *

[2464] * * * Trial Examiner Leff: Did you ever take the position that you did not want your superintendents to be members of the Union?

[2465] The Witness: I have always understood, Mr. Leff, that they had to be members of the Union.

Q. (By Trial Examiner Leff) Well, in recent negotiations which began in 1947, did you ask Mr. Applegarth to take a position that foremen were not to be represented by the Union, or did you take no position at all?

A. We took no position at all. The superintendent in the composing room has been there for a longer time than I have been there. I understand he was a member of the Union, I heard him complaining about paying his dues, we had no intention of changing him, so that there was no reason for me to take any position. And so far as I am concerned, we are satisfied with the superintendent in the composing room and in the mail room, so there was no reason for me to take any position as to their membership or non-membership.

Cross Examination.

* * *

[2476] Q. Did you—have you ever suggested to the superintendent the discharge of any employee?

A. I have not.

Q. In the operation of a composing room when a man is hired, the superintendent is allowed a certain length of time in which to determine whether or not the man is competent, is he not?

A. I believe there is in the contract a clause to that effect.

Q. So that if a man is hired and the superintendent after observing his work feels that he is incompetent, he can let him go, is that correct?

A. That is right.

Q. Have you followed here, Mr. Mills, the practice of using a slip board?

A. There is a slip board.

Q. And when an applicant wants employment he puts his name on the slip board, does he?

A. I could not give you a true picture of the operation of the slip board.

Q. Do you know whether or not the superintendent hires him priorily from the slip board?

A. I would assume he did.

Q. Then, if the man is incompetent, he discharges him and selects the next man on the slip board?

[2477] A. I believe that would be the logical—that could be the logical way to operate.

Q. Now, with respect to apprentices, do you know whether or not a man is required to be a Union member before becoming an applicant for apprenticeship?

A. I have no knowledge as to that.

Q. And you don't know what kind of tests are given him before a man is accepted as an apprentice?

A. Beyond some standard that has been devised by the apprenticeship committee, I do not know.

Q. Are you familiar with the standards?

A. I am not.

Q. Has the apprentice system generally operated satisfactorily as far as you are concerned, Mr. Mills?

A. I have no complaints with it.

[2479] • • • E. R. HATTON, a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Trial Examiner Leff: What is your full name?
The Witness: E. R. Hatton.
Trial Examiner Leff: Where do you live?
The Witness: 19115 Birchcrest, Detroit.

Direct Examination.

Q. (By Mr. Martin) By whom are you employed, Mr. Hatton?
A. The Detroit Free Press, Knight Newspapers.
Q. What is your position?
A. Circulation Director.
Q. How long have you held that position?
A. Thirty-nine years.
Q. What are your duties as Circulation Director?
A. In general charge of the Circulation Department.
Q. In connection with those duties, does the general over-all supervision of the mail room come under your jurisdiction of the Paper?
A. It does, yes.

• • •

[2536] • • • *Recross Examination.*

Q. (By Mr. Van Arkel) Mr. Hatton, has the apprenticeship system of the Union caused any difficulties in the last few
[2537] A. I wouldn't say any difficulties, no. There has been a turn-over in the number. We have had this experience, a number of our apprentices after they have been trained have either left or been transferred to other jobs in town, so that we fail to gain the net result from the training that we gave them in our office.
Q. But so far as the general system of apprenticeship training is concerned, has that caused any difficulties?
A. We have had no specific complaint.
Q. Would you say, generally, it had operated satisfactorily?
A. In general, yes. We do feel, however, though, that after having trained people under the accepted apprenticeship schedule, they should be allowed to remain with us for at least a reasonable time.

• • •

[2588] MAX BURNS, a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination.

Q. (By Mr. Van Arkel) What is your name?
A. Max Burns.
Q. Where do you live?
A. Hotel Park View, Detroit, Michigan.
Q. What is your present position, Mr. Burns?
A. President of the Detroit Mailers' Union No. 40.
Q. For how long have you been President of the Mailers' Union?
A. Since 1941.

• • •

Q. For how long have you been a member of the organization?
A. Since 1937, early 1937.
Q. Now, there has been some reference in Mr. Applegarth's testimony, Mr. Burns, to the adoption of Conditions of Employment by the Typographical Union and Mailers' Union in 1945; were those Conditions of Employment which were adopted [2589] at that time similar to the Conditions of Employment distributed to you by the International Typographical Union after August, 1947?

• • •

[2590] • • • A. Let me see my file there. Substantially, the Conditions of Employment were the same except for some italics that appeared in the Conditions of Employment issued by the International Union after August 21, 1947.

Q. (By Mr. Van Arkel) But were the substantive provisions in general similar?
A. Yes.

Trial Examiner Leff: Do you have a copy of the Conditions of Employment form which was issued, which was used in 1945?

The Witness: I probably have in my office, not here, though.

A. (Continuing) I might say the basic difference was something of this nature, the Conditions of Employment

form of 1945 carried in italics something along these lines: "That the following conditions for which and under which members of the Detroit Mailers Union No. 40 shall accept employment." Such language did not appear in the Conditions of Employment form which was issued after August 22, 1947. And the basic difference would be something along these lines, and that arose out of the adoption of the Taft-Hartley Law—"that no Local Union Officer or Chapel Chairman or other member of the Union shall be authorized to act as an agent for the [2591] Union." That was because of the agency amendment to the National Labor Relations Act by virtue of the Taft-Hartley Law.

Mr. Sinsheimer: There is a reference in one of the earlier exhibits, in the Typographical Magazine, Board's Exhibit 7-B, which states: "Abandonment of historical collective bargaining. The form approved by the Executive Council is." That is headed "Conditions of Employment." I do not know whether that is a complete form or not, but it is a reference to the Conditions of Employment.

Trial Examiner Leff: Why don't you show that to the witness now and ask him whether according to his recollection that is the type of form used at that time?

The Witness: That appeared on the old Conditions of Employment rather than in the Conditions of Employment form in use prior to August—wait a minute—you have got it right there; this is for 1945.

Mr. Sinsheimer: That is what I was referring to, Mr. Burns. Is that the one that was used in 1945?

The Witness: Not by the Detroit Unions. I may point out that there is a difference, the Detroit Typographical Union No. 18 and Detroit Mailers' Union No. 40 were the first two Unions to adopt Conditions of Employment at that particular time on that particular matter, and the phraseology which was contained in both the Mailers and Typographical [2592] Union's Conditions of Employment, such as I gave you, that "The conditions for which and under which members shall accept employment", which is not contained in here.

• • •

[2598] • • • Q. I would like to show you Board's Exhibit 36-G, which was a letter from Mr. Applegarth addressed to Mr. Sparkman. I believe the testimony was that you received a similar letter, and I will call your attention to

the three questions at the end of that letter. Did you in the meeting of—in a meeting about October 8 give any replies to those questions?

A. Yes, we did.

Q. What reply did you give?

A. With respect to the first question: "Does your Local Union intend to comply fully with ITU collective bargaining [2599] policy?" We stated, yes. On the other hand, we stated that we were not entirely clear as to what that might be, that it had to be interpreted from time to time as we went along. Now, I am just trying to clear my thinking sufficiently—that wasn't the answer, I am sorry.

We answered that by asking a question. The question was this: "Does the Detroit Newspaper Publishers' Association intend to comply fully with the ANPA collective bargaining policy?" Was the answer we gave to that.

• • •

[2601] • • • Q. Was there any answer given to the second question, Mr. Burns?

A. "Would you agree to a contract, verbal or written, signed or otherwise, to take effect between us at the expiration of the present agreement"? The answer was yes, if [2602] we can reach an agreement.

Q. How about the third question, was there an answer given to that?

A. Three—"Whether it be by contract or unilateral promulgation, isn't it true that your Union must insist upon the standard conditions of employment prescribed by the ITU, as the conditions under which your members will work after the expiration of the present agreement?" The answer was no.

Q. Did you at any time during your negotiations after August 22, 1947, propose Conditions of Employment as a method of operation between you and the Newspaper Publishers?

A. We never proposed Conditions of Employment. We did propose that employers recognize that members of the Union had no obligation to do other than what may be specified in the Conditions of Employment.

Q. Are you referring now to a letter which you sent on the 17th?

A. I believe that was the date, August 17 or—

Q. (Interposing) Did you ever submit to the Publishers any Conditions of Employment filled out?

A. No, not Conditions of Employment.

Q. I would like to show you Respondent's Exhibit No. 12, Mr. Burns, which according to the testimony was submitted at a meeting of October 8, and direct your attention to that. Now, can you tell us what discussion there was with respect [2603] to Paragraph (a)?

A. Before I start to answer, I might explain that this (a) through (i) was discussed at that meeting and the questions which are treated in each of these paragraphs discussed at a prior meeting, and I may be mixed up as to whether I am talking about the October 8 meeting or the meeting just prior to that, but these things were treated at that one or two meetings.

As far as (a) was concerned, "The party of the first part hereby recognizes the party of the second part * * *" I would say there was no question. I mean, it was generally assumed that the Typographical Scale Committee was there, the Mailers' Scale Committee was there, the Publishers' representatives from The Detroit News, The Detroit Times, The Free Press, were there; that we were mutually recognizing each other as representing the people whom we were supposed to represent.

Q. Was there any discussion about the phrase: "subject to the latter's jurisdiction"?

A. Yes, there was a question as to that, but that came out more specifically in (d), I believe. Yes, more specifically in (d).

Q. What did the Union—did the Union explain what the intention of that last phrase in Paragraph (a) and the intention of Paragraph (d) was?

[2604] A. Yes, we did by pointing out that Section 44—in Section 44 we had defined the Mailer's jurisdiction by simply taking what was in our previous contract and adding at the end, in place of what used to be a closed-shop provision, the phrase: "Shall be performed by journeymen and apprentice mailers." And our jurisdiction was then defined to include the handling of in-coming and outgoing papers from the pressroom to and including platform work, all Addressograph work in connection with the mail room operation and all work now being performed by the Mailing Department. And that is in accordance

with what it has been in the past, and there was nothing in dispute about that. There was some discussion as to what it might mean in the composing room because the Typographical contract did not delineate the jurisdiction, but I don't think they ever got through the point in our discussion to do for the composing room what was done for the mailing room by that phraseology.

Q. Was there any discussion with respect to the question of whether or not those sections were designed to insure a closed shop?

A. No, not that I recall. The Publishers did bring up the question of whether that was simply confirming things just the way they were as to jurisdiction, or whether it might not permit the extending of jurisdiction, but the question of a closed shop did not enter into because at the outset we [2605] stated we were law-abiding citizens, we did not want to violate any laws, we just wanted to make dog-gone sure that the Publishers weren't taking advantage of a situation that was completely new to us, completely strange to us, and that we were giving up something that we did not have to give up under the new Law.

• • •

[2607] • • • Q. Now, how about Paragraph (e); do you recall what the discussion was?

A. They acknowledged, one, that we could not compel our people to work with non-Union employees and quoted the law to us. And we suggested that we understood the Law said that a man cannot be compelled to work against his will, and they agreed with us that if two or three people quit at the same time, we might find ourselves charged with a situation of conspiracy; that a conspiracy existed to quit in concert. And our particular reasoning was that we did not want the Union to be sued for damages if a bunch of people wanted to quit in case a non-Union man walked in. We pointed out that if the President of the Union had stood before our kind of people and said to them: "You have got to work with a non-[2608] Union man." He might last his term, but he sure as hell would never be re-elected.

Q. But in practice did the Union have any means of compelling persons to work under circumstances which were objectionable to them?

A. Only coax, but as far as something like that was concerned, we could only coax them and that is what we pointed out; that if they were designed upon a program to bring in non-Union people, we wouldn't want to coax our people to work with them. That on the other hand, if non-Union people were brought into the room in spite of the desires of the Publishers, then, of course, we would probably try to get our people to work with them, but we could not commit ourselves to anything that our people would work with non-Union people and we had to be secure that we could not compel them to work with non-Union people.

Trial Examiner Leff: The International Union could refrain from authorizing strike benefits, could they not?

The Witness: Well, that is—

Trial Examiner Leff: Would that be a form of coaxing to get you back?

The Witness: A man could go to another shop and get employment. Say for instance The Free Press hired a non-Union man—

Trial Examiner Leff: Suppose The Free Press hired a [2609] non-Union man and the individual members of the Union all walked out because they did not want to work with a non-Union man, wouldn't that be considered a lock-out under the collective bargaining policy that was promulgated in 1947 under which strike benefits might be paid?

The Witness: No, no, because then the International Union would in effect be paying strike benefits to members of the Union engaged in an illegal objective under the Taft-Hartley Law, because if they quit because a non-Union man was hired, it would be, in effect, trying to coerce the Employer from hiring non-Union—to refrain from hiring non-Union people, but it isn't necessary for the entire force to quit work for us to be involved in trouble, as we saw it. Because, say, for instance, that ten people quit The Detroit Free Press because The Detroit Free Press hired a non-Union man and ninety people remained on the job, we could still be sued for damages because ten people quit while those ten people could go to work on The News and Times. Particularly if it involved overtime operations because ten people quit, I could think of ten people quitting at The Free Press on the day side where their inserting is being done and it is not done dur-

ing the operation of the daily newspaper, that ten people quit on that particular operation, the inserting of papers would accumulate and would have to be done at night by men working on overtime so that we probably might [2610] find ourselves sued for damages under a situation like that. The International Union, while it acted as a representative, an International Union would not under any circumstances, I am certain, pay strike benefits in instances where people walked off the job because a non-Union man came in to work.

Q. Was that explained during these negotiations?

• • •

Trial Examiner Leff: Wouldn't a man who would continue to work if a non-Union man was hired be guilty of ratting?

The Witness: No, no, we had an issue in Detroit here in one particular Plant the Employer brought in a non-Union man to replace a member of our Union who picked up and went [2611] on vacation. And I coaxed my people to continue to work with the man because I knew what would happen if they quit—he would just have to go out and get more non-Union men to take their places.

Trial Examiner Leff: When was this?

The Witness: This happened within the last couple of months, and when the man came back from his vacation he got his job back and again we had an all-Union shop.

• • •

[2619] • • • Q. Now, was there some discussion, Mr. Burns, concerning the sixty-day cancellation privilege contained in the Preamble to this Agreement?

A. Yes.

Q. What discussion was there on that?

A. They did not want that to be used for bringing the Union in every sixty days for wages. They claimed that it gave them no stability and that contracts had been for a definite term in the past. We pointed out the operation of our Laws, that if we sign a contract with them they could be reasonably sure that barring the necessity of the Union protecting itself, that they would have a pretty stable relationship for a normal period. That that one, sixty days' notice was necessary because Taft had gone out to the West Coast and told some Officer of the Sea-

men's Union that a closed shop [2620] was possible, or it was possible to work that out. In fact, at that particular time Taft and Hartley were disagreeing about what the Taft-Hartley Law said, and we began to be puzzled by it. We said: "Here, maybe somebody will amend this law," and hope springs eternal, we thought that maybe in January when the Congress reconvened, they might amend the Law. Well, then we would be in a position to terminate the contract and get back what the Law took away from us and we pointed that as one of the problems that necessitated something like that sixty-day cancellation period. We pointed out to them that if we said on wages that under our International Laws, if we can back in sixty days and terminated and we couldn't get a wage adjustment out of them, then we would have to get the support of the International Union to get more wages and that the International Union just did not have enough in its treasury to permit capricious opening of contracts. So that if we wanted to be capricious about the exercise of the sixty-day opening, our own International Union could slap us down. We pointed out that settlements had been made in other places, that nobody had disturbed the wage structure and I think somebody said that that had happened in San Antonio. We argued that: "That isn't the case, because as we understand in San Antonio the Employer mandated the scale. And the employees came back and said subsequently, 'No, we won't take [2621] that; we want more money.'"

But in every instance it could be pointed out where a Union settled for wages, that wage remained in effect as of that time, as of the time we were talking. And in fact we pointed out settlements that I had made as International Representative at Youngstown, Ohio, Minneapolis, St. Paul, and Oklahoma City, where the same kind of cancellation was permissible and that these wage rates had not been disturbed and continued in effect ever since the time they were settled.

Q. Was there any discussion of the circumstances, the economic circumstances, under which the Union might cancel the Agreement or give notice of cancellation?

A. Yes, we said this, and they admitted that they were similarly situated. We did not know what the Taft-Hartley Law meant. They agreed that they didn't know what

the Taft-Hartley Law meant. We said, "We do not know what we are putting into a contract." They agreed that, yes, that made sense, because the Law was too new. Well, if we put things into a contract that weren't required by the Taft-Hartley Law by some decision that had been made by some Court, or if the Law was amended and we had given up something that we were not required to give up, with the amendment then we wanted to be in a position to get these things back. On the other hand if in not being careful what we permitted to go into the contract, somebody under the Law might take [2622] advantage of the situation and then we would have to hold still for maybe a year while somebody was beating the daylights out of us. So that even sixty days might seem like an eternity if we had to work under conditions such as that and that we wanted to be in a position that if somebody was out to destroy us, at least we would only have to hold still for sixty days and then we could go fight with them.

Q. Was there any indication of the circumstances that the Union might consider as you describe as "beating the daylights out of you"; what type of circumstances did you have in mind? Was that explained to them?

A. In case they wanted us to hold still while they were packing a room with non-Union people, maybe eliminating our people right and left; they might discharge our people on the slightest pretext and be ramming the room full of non-Union people, or they might be firing our people for no reason, and might decide they would pay no attention to the standing committee, and they might do a lot of things in that respect and fill a room full of non-Union people. And if we went out on strike in less than the sixty-day period, as we read the Taft-Hartley Law, why, an injunction could be issued and order us back in there. Then, well, they would continue to beat the daylights out of us. What we wanted to do was to be able to fight against something like that. On the other hand, say, for instance, our work—mailers have been doing [2623] the same kind of work for years, but they might decide that for practical purposes mailers shouldn't insert papers any more and give that to the mugwump union or no union at all, then we were stuck with that kind of condition. We admitted that we were not concerned too much about the Publishers

in Detroit, but certainly the more insistent that they were to us that they couldn't give us certain protection, we thought we should have, the more concerned we became. And I do not think that either side at the negotiating table distrusted the other side particularly. We were under a cloud in negotiations where we might discuss something in an academic sense, why, this time might be our lives that we were fighting for as far as the labor organization was concerned.

Q. Was the statement in the course of those discussions that the Union would be very foolish to strike in the event a non-Union man was hired in the mail room or in the composing room?

A. If not by design of the Employer that they were hiring a non-Union man.

Q. I wondered if there was discussion?

A. Yes, the statement was made in this respect, that if a non-Union man was put into the mailing room, for example, through no design of the Employer, but simply through circumstances created by the Taft-Hartley Law, we would be darn [2624] fools to shut the Plant down because the employer under that circumstance obviously couldn't avoid it. We couldn't then say that he was bent on hurting our Union. But if he was using the Law to shoe-horn a lot of people in our Union, then of course that was a different matter.

Trial Examiner Leff: Did you make any suggestions as to how the employer might avoid hiring non-Union men?

The Witness: I wouldn't say we made any suggestions. I will say that we talked about it to this extent, that we condemned the Law. I know that our committee had a lot to say about the Law and I won't deny that we didn't like it and we told the Employers that it was a crying shame that for ten or twelve years the Congress had had an opportunity to enact a Fair Employment Practice Law and now along comes a law that you can deny a Jew or a Catholic a job because they are a Jew or a Catholic, but you could not deny them a job because they are non-Union. We pointed out also that they could deny a man a job because of the color of his hair, the color of his skin, the color of his suit, and in fact they could deny him a job for no reason, but they did not dare deny him a job be-

cause he was a non-Union man. We thought that was wrong. We thought it was very wrong. We thought that the Employers who were sitting across the table from us were very derelict in their duty as Publishers of newspapers to have permitted this kind of thing to have [2625] happened; that certainly the newspapers could have had some effect in preventing the kind of thing as the Taft-Hartley Law. That they had encouraged the law and even pointed out to them that it appears somewhat as a surprise to them that after the Taft-Hartley Law was adopted it affected the Detroit daily newspapers. That, well, we got the answer that "The managerial hand doesn't know what the editorial hand does."

* * *

[2704] * * * Q. I am also going to ask you with respect to the following matters whether these questions were asked of you and whether you gave the following answers in your testimony at Indianapolis; I quote from Page 838:

"Q. Mr. Burns, did you attend the meeting on November 24, 1947, between the Publishers and the Union at which Mr. Randolph was present?

[2705] "A. The latter part of November I would not say as to the correctness of the date, but about that date I did attend such a meeting.

"Q. During that meeting Mr. Randolph made the following statement, did he not: 'We ask you to agree to do nothing that will hurt you or us. We know what will happen if non-Union people are hired. The Publishers can put us against this or not, you are either for us or against us. If you insist on a contract, we know you are against us. There is no middle ground, it is fruitless for the Publishers to say they don't intend to hurt the Union, they will never get that kind of a contract. No law can compel it. We have five objectives. One, we don't want to work with non-Union men; two, we don't want to work with non-Union materials; three, we don't want our jurisdiction interfered with; four, we want to refrain from signing a contract and five, we want more money. When the contract expires we have four of the five. There is no unfair labor practice in the fifth. We can and will strike over the fifth. We can be required to sign a contract if we agree to one. The situation is

one of good faith, you are either for us or against us, the line is drawn in Chicago; they are following the party line. We say we will strike if they persist in this. This will be done in every place.' ''

[2706] Now, Mr. Burns, did you hear Mr. Randolph make those statements at that meeting?

A. Well, that is not a verbatim statement. I would not say it is verbatim but it sounds very much like what was going on at that meeting.

Q. Was that question made and did you give that answer?

A. That is true.

Q. Were those questions asked and did you give those answers?

A. That is true.

Q. Were your answers correct?

A. Correct.

Q. And at Page 840 of the transcript of the proceedings in Indianapolis, the following question:

"Q. Did you also hear Mr. Randolph make these statements at that meeting: 'Conditions of Employment can't be adopted without the approval—' ''

And Mr. Van Arkel interposed an objection.

"Mr. Van Arkel: I object to that. I do not think the witness has testified to hearing Mr. Randolph make those statements, Mr. Jones."

Then,

"Mr. Jones: Strike the question."

Then this question was read:

"Q. Did Mr. Randolph make the following statement: 'Conditions of Employment can't be adopted without the approval [2707] of the ITU, the effort here was to attempt to keep the sixty-day cancellation clause from being utilized. We couldn't tell you that it would be in existence for a year because if you accepted it it would have to be a contract.'

"A. Well, here is the only thing, in trying to answer something like that I am supposed to jog my memory back four months. No court reporter was taking it, merely—"

Then the Court interposing:

"The Court: Could you answer it?

"The Witness: Some of it sounds like it could have taken place. Now, the only thing I don't want to hinge on, that would be out of place—"

Then the Court interposing:

"The Court: Is that substantially what was said?

"The Witness: It sounds like something that was said there.

"Q. (By Mr. Jones) Did Mr. Randolph also state at that meeting, 'Our law and policy is the same every place, that is not true of any other Union.'

"A. It sounds like something Mr. Randolph might have said."

Now, were those questions asked of you and did you give those answers?

A. Substantially those are my answers, as I mentioned before, [2708] the stenotypist had a little bit of difficulty in getting what I said, but substantially that would be correct; it is not exactly correct.

Q. But substantially correct, and that testimony was then substantially correct?

A. That is right.

• • •

[2710] • • • *Redirect Examination*

[2711] Q. (By Mr. Van Arkel) Mr. Burns, with respect to the ten-day cancellation clause which was mentioned in connection with the Form P6a, was the discussion you had about that matter, did that relate to the question of whether a ten-day notice was illegal or whether it was insufficient?

A. The objection was the indefinite term.

Q. The ten-day, I am now talking about.

A. In other words, on the ten days or sixty days, that permitted the contract to be for an indefinite term.

Q. Now, with respect to the—

Trial Examiner Leff: You mean there was no objection made that it should have been sixty days?

The Witness: No, they objected to the ten or sixty as long as it was an indefinite term, it was unacceptable. So that is why it wasn't important whether I found out whether it should be sixty, if I found out that sixty days was all right, they wouldn't have accepted it anyway.

Q. (By Mr. Van Arkel) Do you know, Mr. Burns, how your assignment to the Louisville situation came about?

• • •

[2713] * * * CLIFFORD G. SPARKMAN, a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination.

Q. (By Mr. Van Arkel) What is your name?
A. Clifford G. Sparkman.
Q. Where do you live?
A. 906 Emerson, Detroit.
Q. What is your present position, Mr. Sparkman?
A. President of the Detroit Typographical Union.
Q. For how long have you held that position?
A. Seven years.
Q. How long have you been a member of the International Typographical Union Local?
A. Since—the Local?
Q. Yes.
A. Since 1929.
Q. Has the Detroit Local ever operated under an agreement not approved by the International Union?
[2714] A. Oh, yes, sure.
Q. When was that?
A. Well, in a number of cases. As a matter of fact, our commercial contract last year wasn't approved by the International. And in the case of the newspapers it has been some years but up until—I think the first approved contract that I can remember in Detroit, after coming here, was in 1936. In other words, from 1929 to 1936 we weren't approved.
Q. Have they been approved from 1936 to 1947?

* * *

[2721] * * * Q. (By Mr. Van Arkel) Mr. Sparkman, I would like to ask about a couple of other matters: Suppose that a young man decided he would like to become a printer. How does he go about it?
A. Well, he can go about it in half a dozen ways. You mean a printer in one of our shops?
Q. Yes.
A. Well, he might down to the Union and ask how to become [2722] a printer or he might go to one of the shops. In any case, he would wind up in the same place. We have a Joint Apprenticeship Committee which is run by six people, there are three representatives of the Employers

and three of the Union. And the first step he would take would be to take a test, he would fill out a little application blank and take a test.

Q. What kind of test?

A. The first test is largely English, just general intelligence, and a little list of words: "How do you spell them?" A paragraph with no punctuation in it, and you punctuate that, and so forth. In other words, to see if the kid knows what it is all about. To see if he might make a halfway decent apprentice printer. This is not mechanical, he is not supposed to know anything, just a test that any high school kid should not have any difficulty with; that any eighth grade student should be able to pass.

Q. Is any person eligible to take that test?

A. Oh, yes.

Q. What happens to him, assuming that he passes the test?

A. If he passes the test then he gets himself a job.

Q. Does he have to become a Union member, an apprentice member up to that point?

A. No.

Q. Then he goes—once having passed the test, he goes around in search of a job?

[2723] A. He usually is assigned a job through the Joint Committee because they handle all the openings in the shops, they are established under the contracts and they handle all the openings under the contract but there are individual employers who have a preference—they will send some boy down and if he passes, why, we have, for instance, a number of boys that their father may own the place. The boy is going to be an apprentice, he is sent down and naturally he wants him in his own shop. And, incidentally, the other employers do not want him in their shop either because he is a competitor. He doesn't want the boy in his plant whose father also runs a printing plant, or possibly his brother runs one, he might lose a couple of accounts doing that.

Q. So, then once he has located a job, then how does the apprenticeship continue after that?

A. Well, at the end of the first year he becomes a registered apprentice member of the ITU. A registered apprentice and a member of the ITU. In other words, the ITU doesn't even know who the first-year apprentices are, not until after they have completed the first year. It isn't

until they have completed the first year that the ITU has any record of them.

Q. Up to that time, up to the end of the first year, is the apprentice required to do anything by way of joining the Union or taking out a card or being registered or anything of the kind?

[2724] A. Well, he is registered by the Local Union. What I mean by that is that we have a record of him. I don't know, as far as I know, we do not charge him any dues. I wouldn't want to swear to that because I don't handle the apprentice thing. I don't have much connection with it outside of appointing our three members on the Joint Apprentice Committee. I don't know exactly how they do handle it. I know that he has no connection with the ITU until the end of the first year, that they even know who he is. We have a record of him, yes.

Q. In the learning period of his apprenticeship does he then follow the ITU lessons on printing?

A. Yes.

Q. How is his training supervised during that time?

A. Supervised by the foreman, and in Detroit we have schools also that the boy attends four hours a week in addition. I mean in connection with his work. As to his progress over there, he is given periodical examinations and so forth. If a boy through those examinations does not seem to be learning the things that he should or is behind in his lessons, the first thing you know he is called in front of the Joint Committee, which meets once a month. They want to know why he isn't making progress, and why he is behind in his lessons. Once in a while because of conditions in a particular shop they might arrange a transfer to another shop, but if the boy [2725] just doesn't show aptitude for it, the first thing you know the boy is an ex-apprentice.

Q. It is only at the end of his apprenticeship that he is eligible to full-fledged membership in the Union?

Q. It is only at the end of his apprenticeship that he is eligible to full-fledged membership in the Union?

A. Yes.

Q. Is he required to pass an examination before being admitted as a journeyman?

A. Yes, they have what—I don't know too much about it, about the type of examination, but I know that he is

checked as to whether he has learned this and whether he has learned that and whether he has learned other things. There are cases where boys don't serve the full six years. I mean, maybe at the end of the fifth year the employer thinks that the boy has made such progress that he is willing to pay him the journeyman's rate and so forth. So, it is only at the request of the employer that we grant any out in his time. In other words, that is the initial step, that he has to get an employer to request it.

Q. Now, let me ask you about someone who is not a member of the Union but claims that he is competent at the trade. Are there means by which he can become a member of the Union?

A. Oh, yes.

Q. Without serving an apprenticeship?

A. Yes.

Q. How does he do that?

[2726] A. Well, he makes application and we send him over to this same school and he is given a journeyman's examination. If he passes that, why, assuming that there is nothing against him, that there is no moral reason why he shouldn't be taken in, he is passed on by the membership committee. They interview him and make a recommendation to the Union and he is voted on, and if he passes that, he is in.

Q. This examination that is given, is that the same examination given to the apprentices in order to become members of the Union?

A. Yes, that is the same.

Q. Is anyone eligible to take that examination who claims to be competent?

A. Yes.

Trial Examiner Leff: Before he can qualify must he show that he has had six years experience in a Union shop?

The Witness: Not necessarily in a Union shop. Ordinarily, I would say, he had better have pretty close to six years. Only we wouldn't say he would have to have seventy-two months, we regard six years as being a breaking line, as I explained, except in exceptional cases—if he went over there and did a perfect examination, why, six years wouldn't amount to too much.

Trial Examiner Leff: Would he not be disqualified he this six years, let us say, was served in a non-Union shop?

[2727] The Witness: No, I would say that in Detroit,

at least, this might be different in the rest of the ITU, but I would say that at least a third of our members learned their trade in non-Union shops. This town is largely new organized. I mean by that, we have a much larger organization and a lot more shops than we had eight or ten years ago.

Q. (By Mr. Van Arkel) Mr. Sparkman, did you hear most of Mr. Applegarth's testimony?

A. Yes, I think I did. I was reading in the paper a part of the thing but I heard most of it.

Q. In addition to the meetings that Mr. Applegarth testified about, were there any informal meetings?

A. Yes, well, you see, here is the deal—things are different in this town maybe than they are in some towns. Mr. Applegarth's office is right across the street from mine; he eats lunch in my building, the restaurant is in my building, and I see him practically every noon. It is more like a small town atmosphere, at least as far as our business is concerned. I probably talk to him maybe two or three times a week, any time I like, and when the scale negotiations are going on every time we meet each one wants to know if the other had thought of something or heard of anything that might affect our situation. We were constantly trying to work out some solution to the difficulty we had found ourselves in, in trying to find a basis so that we could do [2728] business.

• • •

Q. (By Mr. Van Arkel) Did the proposal with respect to the Typographical Union, Mr. Sparkman, contain the Provisions (a) to (i) which appear on Board's Exhibit—or Respondent's Exhibit No. 13?

A. Yes.

Q. Would you tell us what conversation you recall with respect to the easons for the request for the inclusion of [2729] those clauses in the agreement?

• • •

A. Maybe I could explain something. Mr. Burns' position is a little bit different than mine. In other words, he is a Local Union President who also on occasion acts as International Representative. I am a Local Union President and that is all. My thinking sometimes is a little bit different than his. I notice, for instance, that his answer to that question about—Do you always follow ITU policy?

Well, his answer to that was different than mine would have been for the simple reason that I don't think from the International angle, I think from the Local angle. He might answer that question in Sioux City one way and in Detroit another. Certainly when he has two capacities as International Representative in Sioux City there couldn't be much question that he would follow International policy and what [2730] he would do as President of the Detroit Mailers' Union might be something else. I know my policy is to follow what I think the members of this Local want. That is evidenced by the fact that we have signed contracts since I have been in office that have not been approved by the International. We would have done it again last year if we could have gotten a contract that was satisfactory to the Local Union and I so informed the Publishers.

* * *

[2733] * * * Q. How about Section (e)?

A. Well, it was strictly the feeling on our part that we needed protection in regard to the unauthorized acts of any [2734] member or even under provocation the Union might be held responsible for it because the Union under its setup has got so many people with titles but no authority. What I mean by that is every shop, in every shop you have a chairman, you have committee members, and in shops like these newspapers you have not only one chairman, you have eight, nine or ten of them. You have three shifts and you have got on the off-days, and so forth, you have a chairman of the chapel, a night chairman and a man on the third shift and on all these odd starting times there is a chairman there at all times, he might be a night chairman, and if he had a personal grudge or for some other reason he created a furore, we did not want the Union paying for it when we didn't even know about it.

I do not think I read this very well before I got into it.

Q. In the absence of the regular chairman of the chapel—

A. No, I beg your pardon, I was answering it, I took it for granted I knew what was in there. This is about non-Union men.

Well, the same thing, the same principle would apply, we wouldn't want to be responsible for individual actions of some members in case a non-Union man was hired. The Union hadn't taken any position and did not intend to

take any position that we would not work with non-Union people, because [2735] that was contrary to the law and we have never had any intention of violating the law. In fact, we informed the Publishers on many occasions that we intended to comply with the law. But if some individual member exercised the right that the law left to him to quit his job because he did not like the introduction of non-Union men in the room, we did not want to be responsible for that because we had no authority to compel him to work with non-Union people. And if we could not compel him to do that, we did not want to be held liable for a breach of the contract. So, we asked the Employer to recognize that we could not compel him to do that.

* * *

[2738] * * * Q. How about Section (i)?

A. Well, that was—there was considerable discussion about that particularly with regard to the $25.00. We felt that it definitely had to be—that there definitely had to be a limitation of liability because the Law was so vague, at [2739] least to us, that it would be hard to understand in many cases and we did not want to wind up paying for a printing plant unless we could get delivery on it, and we figured that $25.00 was enough for anything that we might be responsible for. We didn't—there were some different figures talked about. In fact, a thousand dollars was mentioned there at one time. It wasn't particularly around the money, it was the principle that we had to have protection with regard to liability because—

Trial Examiner Leff: (Interposing) Who mentioned the thousand dollars, did you or the Publishers?

The Witness: I believe Mr. Applegarth mentioned it. I am not sure, I might have mentioned it myself. It was just tossed out on the basis of: "Would a thousand dollars be any better than"—as I remember the thinking was for anything that might happen serious enough to warrant them—that a thousand dollars wouldn't do any more to remedy the situation than twenty-five dollars would. But in other words, these are pretty big concerns and they make so many millions of dollars a year and we have only got a few bucks in our treasury and we don't want to go beyond that. It definitely would be a burden on our membership even to have that liability because if it took whatever money we had in our treasury and we

had a judgment for twice that much, the bailiff would be around every time we collected some dues [2740] and it could definitely wreck our organization by excessive damage claims. We felt that the thing had to be exclusive and there had to be limitation on the liability.

Trial Examiner Leff: Wasn't that true before the Taft-Hartley Act?

The Witness: Until the Taft-Hartley Law came along, we trusted each other, we never had so much trouble about somebody was going to sue somebody else. We never thought about suing them and they never thought about suing us and we got along pretty good.

Q. (By Mr. Van Arkel) Was there some discussion about the sixty-day cancellation clause in the Preamble?

A. There was a lot of discussion. In other words, we felt that was pretty important because of the imponderables in the law, the fact that there hadn't been up to that time any interpretation of it. We thought we would like to know what it meant and where we stood. They came along, "Here is our contract, we have taken everything out that conflicts with the law." They did not ask us about taking everything that we agreed that conflicted with the law. They gave us what they, in their opinion, thought was not in conflict with the law. We did not want to be in a position of letting them do something that the Supreme Court had not yet done, telling us what was in the law. So we wanted to be protected in case we found out they weren't infallible, that some of these [2741] things taken out were not contrary to the law, plus the fact that if a situation developed if and when we got a different kind of publishers in our town, which has happened. I recall right recently a paper became Union over in Edmonton, Alberta because they had had a lot of trouble, someone bought it who wanted to run a Union paper.

The other thing could happen too, somebody could come in here and buy a paper who did not want any Unions, and if he started to tear up our Unions, we wanted to be protected, to defend ourselves.

Q. Was there any mention made of the possibility of Mr. Bowles buying the Detroit papers?

A. Bowles from the experience we have had down in Springfield, Massachusetts, wouldn't be a bargain either.

Mr. Sinsheimer: I object.

Trial Examiner Leff: Motion granted.

The Witness: He was used as the horrible example.

Q. (By Mr. Van Arkel) Will you tell us what the discussion was on that point, Mr. Sparkman?

A. Well, I mean, they asked the same question: Why do we want it in there? We said: Suppose some Publisher starts out to take our Union apart or put us out of existence because he doesn't want a Union in his plant? So they asked: "Do you think any of these Publishers would do that, after knowing them these years?" I said, "No, I do not think so, [2742] but how do I know that you are going to own those papers for even the length of these contracts?" The contract they were talking about, they had no present intention of selling. I said, suppose some fellow like this fellow Bowles in Springfield, Massachusetts, who has the money, comes along and buys one of these papers, you know how long it would be before he was trying to get rid of the Union. I said, "We have got to have protection because we don't know what is coming up. We have got to be protected so we can preserve the Union which mean a whole lot to our mmbership. That is the reason we want the sixty days in there."

• • •

Q. (By Mr. Van Arkel) Mr. Sparkman, directing your attention to Board's Exhibit 36-G, I think, the letter addressed to you on September 29th, was there some discussion about the three questions at the end of that letter at the following [2743] meeting?

A. At the next meeting we gave them the answer to these three questions:

"No. 1. Does your Local Union intend to comply fully with ITU collective bargaining policy?" That our bargaining policy was to try to negotiate something that was satisfactory to the Local Union, and I told them on many occasions that we would sign anything that was satisfactory to the Local Union. The fact that they called our attention—they called our attention to the fact that most of our moves seemed to be in conformance with the ITU policy and I told them that that was a coincidence. They said it was planned that way. I said no, that that was their assumption because it was only a coincidence that the members of the ITU in Detroit would, for instance, would feel that they needed the same protection that members in Indianapolis or some place else felt that they needed and

that seemed to be at that point the best means of achieving that protection.

• • •

Q. What answer did you give to the other?

[2744] A. "No. 2. Would you agree to a contract, verbal or written, signed or otherwise, to take effect between us at the expiration of the present agreement"? The answer to that question was yes, if a satisfactory contract would be negotiated.

A. "No. 3. Whether it be by contract or unilateral promulgation, isn't it true that your Union must insist upon the standard Conditions of Employment prescribed by the ITU, as the conditions under which your members will work after the expiration of the present agreement?" The answer to that was definitely no. I did not say that I wouldn't, the question was: "Is it true that we must?" This is an autonomous Local Union.

Mr. Sinsheimer: May we have the date of the answer?

The Witness: The next meeting after receiving this letter.

Q. (By Mr. Van Arkel) Was that the meeting of October 8?

A. Very evidently was. In other words, the fact that we have signed contracts before without approval of the ITU.

• • •

[2745] • • • Q. When the Detroit Local had previously operated under contracts not approved by the ITU, had there been any form of reprisal taken against the Detroit Local because of that fact?

A. No.

Q. Has that to your knowledge ever occurred in the history of the Typographical Union?

A. Not to my knowledge.

Mr. Van Arkel: I think that is all I have.

Cross Examination by Mr. Sinsheimer

Q. Whose school is this?

A. The school belongs, I guess, to the Board of Education.

Q. Who controls, who is in charge of the training of the apprentices?

A. This is part of a bigger set-up. In other words, it is not only our school, there are a carpenter's school, bricklayer's school, and all these different trades over there; it is a trade school, that is what it is.

Q. Is your Union represented in the determination of whether these apprentices are doing satisfactory work?

[2746] A. Everything in the school is run by the Joint Committee under standards that are prescribed by the United States Government. The Federal Government pays part of the cost and the local Board of Education pays part of it and I think the State pays a part, under the Smith-Hughes Act, or something, one of those Acts.

Q. If your Union Representatives do not approve of a man, will he be certified or not?

A. Certified for what?

Q. As a worker, or will that terminate his apprenticeship?

A. Well, it isn't a unilateral thing—I mean the Joint Committee doesn't operate as a Union concern only, the Employers are presented—it is a Joint Committee and I have never heard of any serious division over there. I mean, the facts speak for himselves—here is a boy, if he comes before the Board, is he making progress? Evidently he isn't or he wouldn't be in front of the Board. There must be a reason, in other words, can he show—maybe the shop doesn't have all the facilities that it should have. I mean they are not giving him the right training. There have been cases of that kind. They put a boy in another shop and he did all right. There have been cases where they finally gave up, they couldn't make a printer out of him. So, they tell him to go.

Q. Does it require unanimous approval of the Committee or [2747] what to approve men?

A. Darn if I know, there has never been any occasion to find out. I never heard of a three and three division on that committee.

Q. Have you ever heard of any split?

A. I think—oh, yes, I think there probably is argument.

Q. Did you ever hear of a split of the vote in regards to a man?

A. I am not close enough to know whether they ever had one of those. The chances are, there are some pretty strongminded people, Mr. Henry, the President of the PIA is a member of that committee or was for many years. So, he is not likely to have too much of a Union's viewpoint.

Q. What is the PIA?

A. The Printing Industry of America; they are suing us too.

Q. I believe you testified about a third of the men in the shops in Detroit learning their trade in non-Union shops?

A. That is just a guess, but I would say a third. Well, in fact, it is a cinch they have learned their trade in non-Union shops because today we have about one hundred and sixty Union plants in Detroit. When I took office back in 1941 we only had sixty-five, so there are ninety-five shops that came in since that time. Of course, they are mostly small.

Q. About how many non-Union men have applied to this—through this school and been admitted to membership in the [2748] Union in the last two or three years?

A. Oh, two or three hundred.

Q. That have been?

A. Yes.

Q. Were those persons who were in shops that were taken into the Union?

A. Oh, no, I am talking about people that just walked into the Headquarters and filed an application for membership.

Q. Where would they come from?

A. Everywhere, non-Union shops in this town, from country towns, almost any place.

Q. Have you turned any of them down?

A. Yes, we have turned down two or three.

Trial Examiner Leff: For what reasons?

The Witness: Because the Employer—well, they didn't have a job; they couldn't get one because we tried them out in a couple of jobs under this permit system we have, and the Employer would not certify them. They were borderline cases that barely passed the examination, which was a little different from actually working in a shop. I mean, anybody who can't pass the examination, you can be sure he can't work in a shop, but anybody who barely skins by an examination, that doesn't make it 100 per cent that he is going to make good in actual production.

Q. Have you had a shortage of printers in this area?

[2749] A. Yes, since 1942 or '43—about 1943. Up to that time we had a surplus of printers.

Q. Since then you have had a shortage?

A. Not as bad now as it was but—in addition to that we took in 140 apprentices, trying to solve that problem.

Q. What did you say?

A. I said in addition to the 200 I mentioned, whatever the figure was, I could check it, we have taken in 140 apprentices in the last two years, too.

* * *

[2751] * * * Q. (By Mr. Sinsheimer) In what years were your agreements not approved?

A. Let's see: The first one that was approved in the newspaper field, after I came here, as far as I can remember, was in—well, that might not be accurate, in other words, the first couple of years that I was here I don't know whether they were approved or not approved.

Q. What year was that?

A. I came here in 1929 and I did not take any active interest in the Union until about 1933 or 1934. I know at that time they were working under a non-approved contract.

Q. Do you know why those were not approved?

A. Yes.

Q. Why?

A. Because they didn't comply with ITU Law.

Q. In what particular?

A. In at least one; the fly in the ointment was that in the Detroit contract day work began at six, and the ITU said that day work began at 7 A.M. In other words, if you went to work at six, that was on the night shift, and in our [2752] contract that was on the day shift; that was the reason. That was at least one reason.

* * *

Mr. Sinsheimer: I would like to ask Mr. Van Arkel whether we can stipulate that all persons covered by the contract Board's Exhibit 35-A were members of the Union on August 22, that is, the Typographical Union No. 18, and have been—have continued to be since that day; and the same stipulation with respect to Board's Exhibit 35-B, that all persons covered by Board's Exhibit 35-B were members of the Detroit Mailers' Union No. 40 on August 22, 1947, and they have continued to be?

Mr. Van Arkel: Including the foremen.

Mr. Sinsheimer: That they are members?

Mr. Van Arkel: Yes, I agree that they are members of the Union. And what is the other question?

[2753] Mr. Sinsheimer: As to whether they are in the unit or not?

Trial Examiner Leff: You are asking Mr. Van Arkel to stipulate about the unit; what you are asking him to do is to stipulate that all employees covered by the last written contract were then and have ever since continued to be members of the Union?

Mr. Sinsheimer: That is right.

Trial Examiner Leff: Will you so stipulate?

Mr. Van Arkel: I will so stipulate; and we will stipulate that all foremen were too.

Mr. Sinsheimer: I am willing to so stipulate.

Trial Examiner Leff: The stipulation is approved and the hearing is adjourned to reconvene in Buffalo, New York, on Tuesday, at 10 A.M., at the City Court House.

[2757] CLAYTON G. UNDERHILL, a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Trial Examiner Leff: What is your full name?

The Witness: Clayton G. Underhill.

Trial Examiner Leff: And where do you live, Mr. Underhill?

The Witness: 132 Huntington, Buffalo, New York.

Direct Examination by Mr. Sinsheimer.

Q. By whom are you employed?

A. Buffalo Evening News.

Q. What is your present position?

A. Business manager.

Q. How long have you held that position?

A. Oh, approximately twenty-five years.

Q. During that time have you participated in negotiations [1758] with Buffalo Typographical Union No. 9 of the I.T.U.?

A. Yes, many times.

Q. Now, are you acquainted with the course of the negotiations during the twenty-five years you have been business manager?

A. Yes.

Q. How have those negotiations been conducted—strike that please—how many newspapers are there in Buffalo?

A. At the present time two dailies, one morning, one evening and one Sundays.

Trial Examiner Leff: I want to ask you gentlemen to refrain from smoking in the room.

Q. (By Mr. Sinsheimer) What are those newspapers; what are the names of them?

A. Buffalo Evening News, Buffalo Courier Express, and the Sunday edition of the Buffalo Courier Express.

Q. For how many years past have those been the only two daily newspapers?

A. About nine years.

Q. Now, how have the negotiations with respect to those newspapers and the Buffalo Typographical Union No. 9 been conducted?

A. Jointly.

• • •

[2759] • • • Mr. Sinsheimer: I will ask the reporter to mark as Board's Exhibit 45 a booklet, the notation appearing thereon "Newspaper Scale Agreement Between Publishers of Buffalo Evening News, Buffalo Courier-Express, Inc. and Buffalo Typographical Number Nine. Effective: August 20, 1946, Expires: August 19, 1947".

(Thereupon the document above referred to was marked Board's Exhibit No. 45 for identification.)

Q. (By Mr. Sinsheimer) I show you what has been marked for identification as Board's Exhibit 45, and ask you to state what that is, Mr. Underhill?

A. Well, this purports to be a copy of our contract from August 20, 1946 to August 19, 1947, between the Buffalo Evening News, the Buffalo Courier-Express, Inc., and Buffalo Typographical Union No. 9. It is correct as far as I know.

Q. And is that the last agreement or contract entered into between the publishers and Typographical Union No. 9?

A. Yes, that is correct.

Mr. Sinsheimer: I will offer Board's Exhibit 45.

Mr. Van Arkel: No objection.

Trial Examiner Leff: Exhibit No. 45 is admitted.

(The document heretofore marked [2760] Board's Exhibit No. 45 for identification was received in evidence.)

Trial Examiner Leff: Do you have an extra copy?

Mr. Sinsheimer: We will have to obtain one.

Q. (By Mr. Sinsheimer) Now, were the contracts prior to Board Exhibit 45, that is, in the last eight or nine years, between the same parties?

A. Yes.

Q. Calling your attention to the year 1947, what was the first notice you received from the union respecting negotiations as to new arrangements with the publishers?

A. You are referring now to a new contract?

Q. That is right.

A. You mean a notice that I received from them, dated —I think it is June 5th to be exact—I think I have it here —June 5th.

Mr. Sinsheimer: I will ask the reporter to mark as Board's Exhibit 46-A a photostatic copy of a letter dated June 5, 1947, addressed to Mr. Underhill and signed for the Buffalo Typographical Union by Mr. Flavin.

(Thereupon the document above referred to was marked Board's Exhibit No. 46-A for identification.)

Mr. Sinsheimer: And, as Board's Exhibit 46-B, a document consisting of four pages, the first page of which is entitled [2761] "Proposed Agreement between Buffalo Typographical Union No. 9 and Buffalo Newspaper Publishers".

(Thereupon the document above referred to was marked Board's Exhibit No. 46-B for identification.)

Q. (By Mr. Sinsheimer) I refer you, Mr. Underhill, to Board's Exhibits 46-A and 46-B and ask you to state what those are?

A. That is a copy of the letter that I received on June 5th from the Typographical Union, requesting, or rather submitting six copies of the proposed newspaper agreement, together with a photostatic copy of the proposed agreement.

Q. That is 46-B, the photostatic copy of the proposed agreement submitted with the letter of June 5th, is that right?

A. Yes, that is correct.

Mr. Sinsheimer: I will offer Board's Exhibits 46-A and 46-B.

Mr. Van Arkel: May we look at them. Do you have extra copies?

Mr. Sinsheimer: I will have to get them.

Mr. Van Arkel: No objection.

Trial Examiner Leff: Board's Exhibits 46-A and 46-B are received.

(The documents heretofore marked Board's Exhibits No. 46-A and 46-B for identification were received in evidence.)

[2762] Q. (By Mr. Sinsheimer) Did you make any reply to the letter of June 5th, Board's Exhibit 46-A?

A. Yes, we wrote them on June 19, 1947: "Acknowledgment is made of your letter of the 5th, enclosing your new proposal to take the place of the present contract expiring on August 19, 1947. Our proposal to you is our existing contract with changes in section 13, 24, 30 and 50, copy of which is attached."

Mr. Sinsheimer: I will ask that the reporter mark as Board's Exhibit 47-A a photostatic copy of a letter dated June 19, 1947 addressed to Buffalo Typographical Union No. 9, and signed by Mr. Righter for the Buffalo Evening News, and Mr. Clancy for the Buffalo Courier-Express; as Board's Exhibit No. 47-B a page headed "Buffalo Typographical Union" — "Section 13—Struck Work" and then there are several paragraphs below.

(Thereupon the documents above referred to were marked Board's Exhibits 47-A and 47-B for identification.)

Q. (By Mr. Sinsheimer) And referring you to 47-A, Mr. Underhill, is that the letter of June 19th which you sent to the union; is that a copy?

A. That is correct.

Q. And what is 47-B?

A. Our counter proposal, four parts.

Q. Are those the proposed changed referred to in your letter [2763] of June 19th?

A. Correct.

Q. And they accompanied that letter?

A. Correct.

Trial Examiner Leff: Was this intended in acceptance of the union proposal with respect to the four paragraphs indicated on the attached sheet?

The Witness: What was that?

Trial Examiner Leff: Was this intended as an acceptance of all of the union's proposals, save for the four sections referred to on the sheet?

The Witness: No, it was just an acknowledgment of the receipt, and our counter proposal, to be carried on with negotiations when we met later on.

Trial Examiner Leff: You did not intend to accept the wage proposal made by the union?

The Witness: The last paragraph says "Our proposal to you is our existing contract".

Trial Examiner Leff: Oh, I see.

Mr. Sinsheimer: I will offer Board's exhibits 47-A and 47-B in evidence.

Mr. Van Arkel: No objection.

Trial Examiner: They are received.

(The documents heretofore marked Board's Exhibits No. 47-A and 47-B for identification were received in evidence.)

[2764] Q. (By Mr. Sinsheimer) Now, after that, did you have any meeting with Buffalo Typographical Union No. 9?

A. Yes, our first meeting with the scale committee was on August 5th.

Q. Where was that meeting held?

A. At the Athletic Club, Buffalo Athletic Club.

Q. And who were present at that meeting?

A. Now you understand and I hope you appreciate the fact that we made some notes of those meetings, because the rest of our contracts expired at the same time in the Fall as the rest of them, and I made some notes of these meetings. Just the things we did, not all the conversations. If you don't mind, I would like to refresh my memory from these of some of the days.

Q. Now, the notes that you are referring to of these meetings in August, who made the notes?

A. Mr. Righter—R-I-G-H-T-E-R.

Q. That is, in the course of the meeting?

A. Yes, he probably made some notes and then followed it up when he got back to the office.

Q. And you examined those at about the time they were made?

A. Yes.

Q. And were they correct?

A. Yes, to the best of my knowledge.

Q. And you need them to help you refresh your recollection?

A. Yes, I think so because, as I say, at that time we had [2765] other meetings that were going on and some conversations with the union that were outside of the meetings, and to get the continuity I would like to refer to these notes. I don't want to refresh my mind except as to just what took place.

Mr. Sinsheimer: I will ask that the witness be permitted to refresh his recollection.

Trial Examiner Leff: Very well.

Q. (By Mr. Sinsheimer) Now who was present at the meeting on August 5th?

A. Mr. Flavin, Mock, Robertson for the union; Clother, Connors, Underhill, Righter for the publishers.

Q. Now, can you tell me who Mr. Flavin, Mr. Mock and Mr. Robertson were respectively?

A. Mr. Flavin is president of Local No. 9, Mr. Mock and Mr. Robertson are members of the scale committee.

Q. Now, who were Mr. Clother, Connors and Righter?

A. Mr. Clother and Mr. Connors represent the Courier; Underhill and Righter, the Buffalo Evening News.

Q. And that is the same Mr. Righter who took the notes that you are referring to?

A. Yes.

Q. What occurred at that meeting?

A. Prior to the meeting on August 5th Mr. Flavin called at the office and left with me a copy of Form "A". Now that is between the time of the notice requesting the new contract [2766] and August 5th. I looked it over hurriedly and I told him I doubted very much if the publishers would sign it. There were things in there we thought were unnecessary. However, I said: "I will accept it", and at the meeting on August 5th—

Q. When you said "I will accept it" what did you mean?

A. I meant I will take it—we will take it under consideration as part of his letter of the 5th. That is, he came in and said: "This will have to be signed with any new contract", so I said: "All right, we will think it over". At this meeting on August 5th the publishers saw no particular reasons for asking us to sign it. I think that without counsel we decided there was some parts that, in our opinion, were in violation of the law. If not they were

skirting the law, and we were asked to be a part of that procedure.

Mr. Van Arkel: Mr. Examiner, I move that this witness's answer be limited.

Trial Examiner Leff: Yes. Will you please keep your testimony to what was said by the publishers and what was said by representatives of the union.

The Witness: Well, I am following that up. That was our contention.

Trial Examiner Leff: Is that the contention that you expressed?

The Witness: Yes, we expressed it at the meeting. I am [2767] telling about what we said at the meeting.

Trial Examiner Leff: Thank you.

A. (Continued) We had until August 22nd to sign the contract. We saw no reason for getting tangled up in this Form "A"; we never had anything like it before, we had always had a signed contract. We didn't like it. That, I think, is the substance of about all that took place on the August 5th meeting, with the exception that it was suggested that possibly we could negotiate a contract without signing Form "A", that we thought it was a pretty drastic thing to ask us to do and unnecessary.

We asked the union if it would be possible to negotiate a contract without Form "A" and they replied that they would take it up with Indianapolis and ascertain if it could be done. As I recall, I think they did it by telephone.

Q. Who was speaking for the union?

A. Mr. Flavin.

Q. Did anything else occur at that meeting?

A. No, nothing in particular, except a long conversation having much to do with this Form "A" and the various parts of it.

Q. Now, did you have another meeting after that?

A. We had a meeting the next day, the 6th.

Q. In the same place, and with the same people?

A. The same place—yes, the same people as the meeting [2768] of the 5th.

Q. Now, what occurred at that meeting?

A. We were informed by the union that they had had a reply from Taylor saying, in effect, that the Form "A" would have to be signed, that it was prepared by union

counsel for the protection of the union, that it was mandatory and compelling that it should be a part of any contract signed before the 22nd.

Q. And, do you know who Mr. Taylor is?

A. I understood that he was one of the vice presidents of the International Typographical Union.

Trial Examiner Leff: Will you show the witness a copy of Form "A" and have Mr. Van Arkel stipulate that it is the same, or identify the exhibit in the record.

Q. (By Mr. Sinsheimer) Mr. Underhill, I refer you to Board's Exhibit 7 (h) and ask you is that the same Form "A" that was submitted to you?

A. Yes, I think that is correct.

Q. Now, did the union have anything else to say?

A. At this second meeting?

Q. That was the 6th?

A. The second meeting.

Q. That is right.

A. No, we went back and talked about Form "A" again, that seemed to be the general thing, about the only thing we could [2769] talk about.

Mr. Van Arkel: I move it be stricken.

Trial Examiner Leff: Granted. Just limit yourself to what was said.

Q. (By Mr. Sinsheimer) Well, you discussed Form "A" again, and what was said?

A. That if Form "A" had to become—they contended that the Form "A" had to become a part of the contract—and if it had to become a part of the contract that possibly we might be able to amend some of the objectionable features, that is, as far as our opinion was concerned, that we might be able to work out something that we could accept. We were also told at that meeting that if Form "A" was not signed, conditions of employment could go into effect on August 20th. At that meeting—we are still on the second, are we?

Q. Yes.

Trial Examiner Leff: The second, on the 6th.

Q. The second meeting on the 6th.

A. We had three in a row—the second meeting—well, if it has got to be a part, let's see if we can't amend it, so we started out to talk over some of the possibilities of

changing some of it—the Twenty-Five Dollar clause there, and the ten days cancellation and jurisdiction and composing room. And we left that meeting with the understanding that Mr. Flavin was to contact Mr. Randolph to find out if the [2770] Local 9 was permitted to change Form "A", and in the event that it was, we carried on and we went through Form A and pointed out, as I say, the parts that we thought were objectionable; we didn't like them, we didn't think it was necessary. The meeting was adjourned, and he was to take it up with Mr. Randolph.

Q. Did you have another meeting?

A. The following day.

Q. The same place?

A. Same place.

Q. Were the same people present?

A. Same people, same representatives.

Q. What occurred at that meeting?

A. They advised us that Mr. Randolph would not permit them to negotiate Form "A".

Q. Anything else that occurred, anything else said?

A. They are not permitted to negotiate Form "A". Form "A" would have to be a part of the contract if it was negotiated before August 20th, to have an approved contract, and if they did not have an approved contract they would not work.

Mr. Van Arkel: I didn't get that. They would not—.

Trial Examiner Leff: They would not work.

The Witness: Without an approved contract.

Q. (By Mr. Sinsheimer) What else occurred at the meeting, if anything?

• • •

[2771] • • • Q. (By Mr. Sinsheimer) Now, just what did the union say with respect to money and what did you say, if anything?

A. We thought that we had better straighten out the contract before we talked about money. We had gone over some parts of the contract that they had submitted with their original proposition of June 5th. Some of them involved considerable extra expense. We still reiterated our position that we wanted to negotiate a contract. We repeated that we wanted to, if possible, change Form "A". We were told again that they couldn't change it on Mr. Randolph's instructions. I said that we have had three

meetings now in three days, we are accomplishing very little. If this continues to be the policy of the local scale com. ttee that everything has got to be referred to Indianapolis, would it not be better to save time for the committee and our time to have somebody come down from Indianapolis and represent you?

[2772] Their reply was that they didn't think so, that the convention was coming up in Cleveland. And nothing more was said about anybody coming in.

Q. Were arrangements made for another meeting?

A. Yes, another meeting was on the 12th of August.

Q. Now, what had been the practice of the negotiations with respect to bargaining for a contract? Was there any particular method followed in the course of requiring negotiations as to what was discussed first?

A. At the first meeting?

Q. No, I am speaking about the years prior to 1947. Was there any particular practice followed as to what matters were first discussed?

A. No, I think we took them in the order of the paragraphs such as were printed in the contract, and when we got to the wages we omitted that and went through and usually came back to that last.

Q. Well then, were wages the last thing discussed?

A. Invariably, with the exception of two year contracts, where they were opened at the end of the first year for wages only. That was the only exception.

Q. There was a meeting on August 12th, and was that at the same place?

A. The same place.

Q. Who were present?

[2773] A. The same gentlemen, Flavin, Mock, Robertson, Clancy, Clother, Underhill and Righter.

Q. Any difference in appearances?

A. Yes.

Q. What was the difference?

A. Mr. Clancy substituted for Mr. Connors.

Q. Who is Mr. Clancy?

A. General manager of the Courier-Express.

Q. What occurred at the meeting on August 12th?

A. We were reminded that if Form "A" was not signed as part of the contract that conditions of employment would automatically go into effect. They already

had a copy of them, and the only parts that were omitted were the working conditions such as wages, hours, vacations. But there were things in the conditions of employment that we would not get that we already had, such as transfers—that would be omitted. Mr. Flavin said: "Well now, don't be too sure, that might be taken up at the Cleveland convention. We will pass over that for the time being".

We still wanted a contract.

Mr. Van Arkel: I move that be stricken.

Trial Examiner Leff: Motion granted.

Q. (By Mr. Sinsheimer) Well, did you make any statement; just state what you said.

A. We requested a contract such as we had had in the past. [2774] I told them that I thought it had come to a sad time that we were confronted with such a situation as this, after all these years. Mr. Flavin agreed that our negotiations were handicapped by these conditions that were submitted to us, making it compulsory, from their standpoint, to sign Form "A".

It was brought out at that meeting again—much of this is repetition—Form "A", right straight down to the fourth meeting, parts we didn't like. We were told that as long as the Taft-Hartley Act was not on the books we would not have the contract.

Q. I believe you said you discussed, or had some conversation with respect to Conditions of Employment.

A. They had Conditions of Employment, which we have never seen. They made no effort to supply us with a copy. I do not recall at that meeting, or a later meeting that they read them to us. I said: "It won't do any good. I can't recall and make comment on a contract that you are just reading to me. It doesn't do any good, it is a waste of time". I think that we brought up the point that if we had continued on—at that time we didn't intend to sign Form "A"—that we were headed for conditions of employment.

The question of some papers in the country signing Form "A" was brought up. Who are they? Well, the scale committee said, you ought to know. You ought to be able to get them through your Chicago office; they have everything. Well, [2775] they don't have everything. They only have the things, I understand, that the publish-

ers want to send them. They send them the scale, but they don't send them the rest of the ramifications and contracts. To my opinion we never knew—at least, I never knew—who signed Form "A".

Q. What Chicago office were they talking about?

A. The standing committee of American Newspaper Publishers Association. It was suggested by the scale committee that there would be no harm come from the signing of Form "A", that we could forget it, we could just file it away, that no harm would come of it. I said that we were not going to sign any papers that were going to be filed away and no harm would come of it. This is no time to negotiate contracts by hidden agreements.

And the newspapers were criticized on their attitude on the Taft-Hartley Act. Even the Buffalo Evening News; it seems to me they called my attention to the fact that the Buffalo Evening News were in favor of the Taft-Hartley Act. Well, I said that they have a right to express their views if they wanted to, but that has no bearing in carrying on these negotiations.

Q. Now, is that all that occurred at this meeting on August 12th, or was that several meetings, or what?

A. Yes, I think that is substantially what took place. Very little conversation had been centered around the contract. Up to that time it was all Form "A".

[2776] Q. Well, didn't you have meetings after that meeting?

A. Yes, we had another one on the following day.

Trial Examiner Leff: August 13th?

The Witness: August 13th.

Q. (By Mr. Sinsheimer) Did you have one or two meetings on the 13th?

A. Two, one in the morning at 11 o'clock.

Q. When was the other one?

A. 2:30 in the afternoon.

Q. Were those held at the same place?

A. The same place.

Q. And were the same people present that had been at the Athletic Club meeting?

A. Correct.

Q. What happened at those meetings?

A. We told them we wouldn't sign Form "A" in the present form. We were willing to work out something

that would, we thought, satisfy them, satisfy the purpose they had in mind, and they replied that nothing could be done, that the Conditions of Employment would have to go into effect on August 20th. We could, if we wanted to or cared to, negotiate the Conditions of Employment. We said that we were not interested in negotiating Conditions of Employment. We had no part in drawing them up in the first place. They were their Conditions of Employment and we weren't going to negotiate them.

[2777] It was suggested that possibly if there were any parts in the Conditions of Employment that we found objectionable that they might be corrected. We attempted too to change that Twenty-Five Dollar limitation—loss of Twenty-Five Dollars limited to, I notice, a ten day strike notice, if they intended to strike. While it is questionable whether that would be legal or not, I did not think that Twenty-Five Dollars was anywhere legal, because at that time the Ford Motor Company and International Harvester was supposed to have made some agreement bypassing the liability. I said that if we set up a sixty page paper to be published on the following Wednesday or two weeks hence, that the publishers, the printers went out on the morning of the day this sixty page paper came out and we weren't going to liquidate it for Twenty-Five Dollars.

If we had a notice of ten days in advance there probably wouldn't be any money involved. We just wouldn't get out any paper at all. But to build up all this work and have them destroy it for Twenty-Five Dollars, I couldn't see that. So, we carried on with the other points of this Form "A", making no headway at all. They didn't acquiesce on anything.

Mr. Van Arkel: I move to strike that, please.

Trial Examiner Leff: The words "making no headway" will be stricken.

Q. (By Mr. Sinsheimer) Just state what you did.

A. They didn't acquiesce on any of the points on Form "A". [2778] Now we had been negotiating Form "A" on all these meetings, they had been all Form "A".

Q. Now, after those meetings, did you receive any further communications from the union?

A. I believe I did. I think I got a letter from them withdrawing—I will get it—I think I got a letter from them around August 14th. Yes, I got a letter from them

on August 14th, to me: "You are hereby notified that Buffalo Typographical Union No. 9 is withdrawing the proposal as submitted to the publishers of the Buffalo Evening News and Buffalo Courier-Express, Inc. on June 5, 1947, because of failure to reach an agreement".

Mr. Sinsheimer: I will ask that the reporter mark as Board's Exhibit No. 48-A a photostatic copy of a letter dated August 14, 1947, addressed to Mr. Clayton G. Underhill, Chairman, and bearing the signatures of Mr. Flavin, president of Buffalo Typographical Union and also Mr. Forster, secretary-treasurer.

(Thereupon the document above referred to was marked Board's Exhibit No. 48-A for identification.)

Q. (By Mr. Sinsheimer) Mr. Underhill, I show you what has been marked as Board's Exhibit No. 48-A for identification and ask you is that an exact copy of a letter which you received from the Buffalo Typographical Union?

[2779] A. Correct.

Q. Did you make any reply to that letter?

A. Yes, the Buffalo Evening News and Buffalo Courier-Express sent a joint letter under date of August 26th.

Mr. Sinsheimer: I will ask that the reporter mark for identification as Board's Exhibit No. 48-B a photostatic copy of a letter dated August 26, 1947 addressed to Mr. Carl Flavin, president of Buffalo Typographical Union and bearing the signatures of Buffalo Evening News, C. G. Underhill and the Buffalo Courier-Express, F. J. Clancy.

(Thereupon the document above referred to was marked Board's Exhibit No. 48-B for identification.)

Q. (By Mr. Sinsheimer) I show you what has been marked as Board's Exhibit 48-B for identification and ask you if that is an exact copy of the letter which you sent?

A. Correct.

Mr. Van Arkel: I have no objection.

Trial Examiner Leff: Board's Exhibits 48-A and 48-B are received.

(The documents heretofore marked Board's Exhibits No. 48-A and 48-B for identification were received in evidence.)

Q. (By Mr. Sinsheimer) Now, after sending the letter of August 26, which is in evidence as Board's Exhibits No. 48-A and 48-B for identification were received meetings with the [2780] union?

A. According to my records, the next meeting was on August 28th.

Q. Now, with respect to that meeting are you referring to any notes; did Mr. Righter make any notes of that meeting?

A. No, I have some notes that I made, extracts from memorandums that I made.

Q. Where was that meeting held?

A. At the Athletic Club, Buffalo Athletic Club.

Q. And who was present?

A. Mr. Clancy, Clother, Connors, Underhill, and Messrs. Flavin, Robertson and Mock.

Q. Now, did you have any meetings shortly after that?

A. Following August 28th?

Q. That is right.

A. I think we had one on September 2nd.

Q. Any other meeting during that period?

A. No, I don't believe so, until we went into October, October 14th I think it is—from September 23rd is the next one.

Q. You had a meeting on August 28th and also on September 2nd, is that right?

A. Yes.

Q. Do you recall whether or not you had one on August 29th?

A. I don't believe so.

[2781] Q. Now, what occurred at the meetings on August 28th and September 2nd?

A. We submitted to Local 9 a proposal that had been amended to the changes effective on August 22nd.

Mr. Sinsheimer: I will ask that the reporter mark as Board's Exhibit 49 a document entitled "Agreement—Between Publishers of the Buffalo Evening News and Buffalo Courier-Express, Inc., and Buffalo Typographical Union No. 9", consisting of thirteen pages.

(Thereupon the document above referred to was marked Board's Exhibit No. 49 for identification.)

Q. (By Mr. Sinsheimer) I will show you what has been marked as Board's Exhibit 49 for identification and ask you is that the proposal which you submitted to the union on August 28th?

A. Correct.

Mr. Sinsheimer: I offer Board's Exhibit No. 49.

Mr. Van Arkel: No objection.

Trial Examiner Leff: It is received.

(The document heretofore marked Board's Exhibit No. 49 for identification was received in evidence.)

Q. (By Mr. Sinsheimer) Now, was there any discussion of Board's Exhibit No. 49 after you presented it?

A. Yes, in that they repeated again that we are not going to have a contract; didn't even read it, just passed it over and [2782] said: "We are not interested".

Q. Now, what else occurred at that meeting, or the meeting of September 2nd?

A. We offered them a Five Dollar increase across the board at the meeting of August 28th. We suggested at that meeting that if they didn't like the contract as proposed to them on this date that we omit the first twelve paragraphs. That would start us with the actual working conditions of hours and starting time and the wages, etc. That was turned down.

The suggestion was made that now that you have been working without a contract and everything has been running along frankly very smoothly and why not continue as we are? They said "No".

Q. The union made the suggestion?

A. We made the suggestion.

Q. Who?

A. We made the suggestion, we submitted this and they objected to it. Then I suggested that we propose to omit the first twelve sections and they still objected.

Q. Who suggested that you operate without a contract?

A. The publishers, Mr. Clancy.

Q. And the union said "no"?

A. Well, we said in effect—Well now, you are going along here without a contract now, since the 18th. You turned this down, omitting the twelve sections—you have turned that [2783] down, why not continue the way we are. They said "No", and that Conditions of Employment would be effected.

Q. And then what occurred?

A. That is substantially all that happened at that meeting.

Q. Was there any discussion—

Trial Examiner Leff: I don't understand. You say you proposed to eliminate the first twelve sections?

The Witness: Yes.

Trial Examiner Leff: You wouldn't have any contract, would you?

The Witness: Well, I agree with you. Perhaps we would end up with just a memorandum, that is about all.

Trial Examiner Leff: Just the memorandum of wages.

The Witness: That is about all. There was no preamble, no starting of the thing. They said no, they had no contract; we weren't going to get a contract. Well, it would come to just a written memorandum, that was about all it turned out to be and they wouldn't take that and they said "no".

Q. (By Mr. Sinsheimer) What else occurred in these meetings?

A. Well, up to that time we hadn't seen a copy of the Conditions of Employment. We had an idea of what they were, some of the parts in them, as far as recognition of I.T.U. laws.

Q. Well, had you received a copy of the Conditions of Employment that had been submitted elsewhere?

A. We had a copy I believe at that time of the one that had [2784] been used at the Rockville Center.

Q. Did you have any discussion of the Conditions of Employment, the different sections in the Conditions of Employment, in these meetings?

A. Yes, we matched them across the table and were left with the impression that they were substantially the same; the ones that we had were substantially the same as in their copy.

Q. Well, did you have any discussion with respect to the proposed changes in the Conditions of Employment?

A. Yes, we were told that we—I think I have repeated before, I stated before that we had no part of the contract, it wasn't our contract, it was their contract. That violations would be on their part, that there was no place for us to sign the Conditions of Employment. That is why no provisions had been made for us to accept it or to acknowledge it. It was their instrument entirely. We could match back and forth parts that we didn't like. We had four changes that we suggested.

Q. What were they?

A. The first part had to do with evidence of a look-out. We suggested that it be changed to "can be regarded by

the union as evidence of a lock-out". There is that part if a man is unable and unwilling to work and we suggested that it be changed to—we suggested to omit "unwilling". The reproduction clause was different than that in our present contract. [2785] We suggested that the old reproduction clause should remain as is, inasmuch as the expired contract had been underwritten by Mr. Randolph without just a mandatory order and the conditions of employment to change the reproduction clause. And the fourth and last part had reference to I.T.U. laws that we suggested be changed to read "not in conflict with any state or Federal laws".

Trial Examiner Leff: What position did the union take with respect to your proposal, your changes?

The Witness: Could you repeat that.

Trial Examiner Leff: You stated that at this last conference you indicated to the union that you desired certain changed in the Conditions of Employment form. You referred to four. What position did the union take with respect to each of those suggested changes?

The Witness: Well, there was no serious objection on their part. I think that they saw the position that we took. But we also had Indianapolis in the background, that these matters would have to be cleared through Indianapolis.

Trial Examiner Leff: Well, did the union say, for example, that the reproduction clause might be negotiated?

The Witness: Yes, they gave us to understand that—my understanding is that the Conditions of Employment are in two parts, the one part is mandated out of Indianapolis, the other part are the working conditions. Reproduction would come [2786] under working conditions, hours, vacations and the rest of that.

Trial Examiner Leff: How about the other working conditions such as the scale, vacations, holidays—things of that kind. Did the union state whether or not it was willing to negotiate with you with regard to the economic terms of the contract?

The Witness: No, they hadn't discussed it up to that time. We had omitted from the first meeting the discussion of their proposals which we passed over lightly. Then we continued up to this time and then we got up to the conditions of these four points of Conditions of Employment.

Now they had asked before, what about money? We had gotten up to the Five Dollars on August 28th.

Trial Examiner Leff: Now you say that the union did indicate that it was willing to negotiate with you for a change of reproduction clause, is that correct? There was a clause that was for working conditions rather than the preamble of the Conditions of Employment.

The Witness: Yes, and it is true as far as transfers were concerned. I think transfers were omitted, and I think they said: "We can straighten that out".

Trial Examiner Leff: How about the other things, like your suggested change with regard to evidence of a lockout; what was the union's position on that?

[2787] The Witness: They couldn't change it without taking it up with Indianapolis.

Trial Examiner Leff: How about your suggested change in the clause which stated something about men being unwilling to work and certain conditions?

The Witness: That applied to that. That is in the Indianapolis part as I referred to that. That is the part from Indianapolis that was mandatory on them. Those parts, the actual working conditions, the hours, vacations, etc., those that we could negotiate and have not done so up to the present time, except the Five Dollars which was offered, and in the interim and somewhere in there that brought Seven or Nine Dollars, we raised it to Eight Dollars.

Trial Examiner Leff: So, in substance then, it was the union's position that it could not negotiate with respect to the form of the Conditions of Employment, that is, the opening few paragraphs, but it could negotiate with respect to the working conditions?

The Witness: Yes, that was our understanding, because that had to be settled because that was the part of supposed conditions that would go into the contract when they posted them or they would post their own Conditions of Employment. They gave us the opportunity to negotiate with them if we felt like it and were so disposed to come to a working contract, that would be incorporated in the Conditions of Employment.

[2788] In other words, I understood that the copy of the Conditions of Employment that they had, those were all

blanks, they were omitted. It was for them to fill in the result of the negotiations.

Trial Examiner Leff: Please proceed Mr. Sinsheimer.

Q. (By Mr. Sinsheimer) Did the union make any statement about taking up your proposals, proposed changed, with Indianapolis?

A. I believe they did, and—

Q. Do you know whether they took them up with Indianapolis?

A. Yes, they did.

Q. When did they advise you of that?

A. On September 23rd.

Q. Was that an actual meeting after this September 2nd meeting?

A. According to my records.

Q. Are you referring to your notes of the September 23rd meeting?

A. Yes.

Q. Whose notes are those?

A. Mr. Righter's—now let me see—no, those were prepared by Mr. Clother of the Courier.

Q. Where was the meeting held on September 23rd?

A. Buffalo Athletic Club.

Q. Who was present?

A. Underhill and Righter, Clancy, Clother and Connors, [2789] Flavin, Robertson and Mr. Mock.

Q. What occurred at that meeting?

A. Mr. Flavin read excerpts from a reply that he had received from I.T.U. headquarters, that that part in italics of the contract could not be changed in any way. Now I think without referring to Conditions of Employment, all those four that we suggested were all in italics.

Trial Examiner Leff: Well, not the reproduction clause.

The Witness: No, I take exception to that. That is correct. It is the other ones. But, of course, I am talking about the working conditions. I have got that in my mind. I am talking about the other parts, the unwilling and unable, and the I.T.U. laws and that they be regarded as evidence of a lock-out.

Q. (By Mr. Sinsheimer) Now, what else occurred at that meeting?

A. Well, we were still in a frame of mind to try to settle this contract. Buffalo publishers and the Typographical union No. 9 had never had any trouble that I

ever heard of. Yes, they got some close calls by strike votes, and some representatives were supposed to carry envelopes of authority to invoke a strike, but we never had positive proof of that. I only bring that up to show that during all these years we had most pleasant and affable relations.

Q. Now, just what occurred at the meeting?

[2790] A. We wanted to continue with that thought in the back of our minds to get a contract, to work out some kind of an agreement within the law. We were convinced that we weren't going to get a signed contract, that the Conditions of Employment were going up.

Mr. Van Arkel: Move the answer to that be stricken out.

Trial Examiner Leff: That portion of the answer beginning with the words "We were convinced" is hereby ordered stricken.

Q. (By Mr. Sinsheimer) Now, will you tell us, Mr. Underhill, what was said at the meeting, that is, by the publishers and by the union.

A. Well, we had a series of questions that we had in mind. We weren't building up any case for ourselves.

Q. What did you say or what did you do at the meeting?

A. We proposed again that in a series of questions that we asked the scale committee—

Q. What did you ask the scale committee?

A. Well, we asked them if we had gotten down there—what was this, the September 23rd meeting—we had been negotiating since August 5th, time was runing out, they were operating under that sixty days notice.

Q. Well, did you ask the scale committee a series of questions?

A. Yes.

Q. And what were they?

[2791] A. Well, we asked them if they would consider negotiating since August 5th, time was running out, they ter proposition, to us on June 5th, and the answer was "No". Then we asked them—Would you agree to consider arbitrating our proposal submitted on August 28th?

Q. Was there any answer to that?

A. The answer was "No", they wouldn't agree to that. Will you agree to arbitrate our proposal of August 28th,

with the first twelve sections omitted? And the answer was "No".

Q. Did you ask any other questions?

A. Yes, I asked some other questions—You are insisting that the Conditions of Employment written by the International Typographical Union, and including the I.T.U. laws, constitute the only arrangement that you will work under? And the answer was "Yes". Even if the I.T.U. laws provide for a closed shop? And the answer was "Yes". Would you negotiate for a new contract? "No." If you come to an agreement with us—not the agreement that we have in mind, I am only enlarging on it—it was something like the twelve pages omitted—if we would initial it or sign it or something, and the answer was "No". And, will you submit it to an impartial board of arbitration up to the point of what they had gone through up to then? And the answer was "No".

Q. Were there any other questions?

A. There was a question of money that they had in mind. [2792] I think their offer was—I think their offer was Twelve Dollars and they said they might be able to settle it for Ten.

Trial Examiner Leff: Did you discuss wages at that meeting?

The Witness: Yes, somewhere along the line I think we gave them another dollar.

Q. (By Mr. Sinsheimer) That is, you offered another dollar?

A. Another dollar, at that meeting, and they said it was not acceptable to the membership.

* * *

Q. (By Mr. Sinsheimer) Did you have any meetings after the meeting of September 23rd?

A. Yes, the following meeting was on October 10th.

Q. Now, are you referring to some notes again?

A. Yes, at the top here.

Q. Whose notes are those?

A. Mr. Righter's.

Q. Where was that meeting held?

A. At the Mediation Board in the Ellicott Square, 906 Ellicott Square, the New York State Mediation Service.

[2793] Q. Who was present at that meeting?

A. The New York State Mediation representative, E. E. Finzar, Underhill and Righter, Clancy, Connors, Clother, Flavin, Robertson and Mock.

Q. What occurred at the meeting?

A. Well, we mentioned the fact that we were bogged down because we were confronted with a mandatory Conditions of Employment. We didn't like it, and we wanted a contract. And I believe it was Mr. Mock that pulled some paper out of his hand and said: "If you want a contract, here is a contract". I don't think we had seen the Conditions of Employment up to that time.

Trial Examiner Leff: You are talking about the Conditions of Employment form or some other form?

The Witness: The form, the form that the union had. We hadn't seen that; they hadn't submitted it to us up to that time, up to October 14th.

Trial Examiner Leff: Well, you were referring before to the matter in italics and Conditions of Employment form. Was that something else?

The Witness: Same thing, only we had copies from Rockville Center that we were operating under, do you see.

Trial Examiner Leff: Oh, I see.

The Witness: And they said to us, in substance, that that is the same as the one we have here. Now we brought Mr. [2794] Finzar up to date with our offer, of our willingness to work out some workable arrangement. We still wanted a contract and with that juncture Mr. Mock, as I say, brought out this paper and said: "Here is a contract if you want it". And we said: "Well, what kind of a contract is that? Is that a sixty day contract?", and he said in substance that it was, and they said: "We don't want a sixty day contract". We had a contract for a year, or on the basis for a year.

Trial Examiner Leff: Now, just to refresh your memory, do you recall whether it was a P6(a) form that was submitted to you at that time?

The Witness: I would be lead to believe that it was. I didn't see it, I didn't read it. But Mr. Mock also followed the statement with: "If you want this, even this will have to be bought", and Mr. Clancy asked him if that was the Baltimore contract. I don't recall his reply, because I was not familiar at that particular time with the Baltimore

contract. I hadn't seen it; I didn't see if it was the P6 (a), although I suppose it was, because that followed the Form "A" as the continuity follows. That was the substitute for Form "A".

We made no headway. Mr. Finzar had no solution to our problems then, and he asked the committee, the scale committee of No. 9 to adjourn into another room and he went in to talk to them, and then came back and said in effect that he [2795] thought it could be settled, that they wanted more money. Money at that time was secondary, we were still wondering how we were going to operate, and under what conditions we were going to operate.

Q. (By Mr. Sinsheimer) Did you say that, or what?

A. Well, that was our feeling at the time, that we had to—

Q. Did you express your feeling or not?

A. We expressed our feeling there that we wanted the contract, still wanted the contract. That was what we told Mr. Finzar. The meeting was short, and we left without seeing the scale committee again.

Q. Now, after that meeting, did you have any further contact with the representatives of the union?

A. The following morning.

Trial Examiner Leff: October 11th?

A. (Cont'd) The following morning, Saturday. They made inquiry as to why the scale committee left without them seeing us again.

Trial Examiner Leff: Who is "they"?

The Witness: Why they left without their contacting us again.

Q. (By Mr. Sinsheimer) Who made inquiry?

A. One of the members of the scale committee.

Q. Who was it?

A. I don't believe I can recall.

[2796] Q. Did you have any discussion or contact with the representative of the union on that day?

A. Yes, I told him in effect—they were having a meeting the next day—that if they would write us a letter, either to the News or the Courier, if they would write us a letter extending the contract for one year, not in violation of any law, with an increase of Eight Dollars, the publishers of the Courier and the News would sign such a letter. They could include in the bottom of the letter, at the left hand

corner, a quotation "Accepted" and I gave them assurance that it would be signed.

Q. Who did you tell that to?

A. Mr. Flavin.

Q. When did you meet with Mr. Flavin?

A. I think I told him on the telephone.

Q. And that was on what date?

A. The 12th, the day following this meeting—or rather the 11th.

Q. It was on the 11th?

A. The 11th, Saturday morning.

Q. Did Mr. Flavin make any reply?

A. He said he would submit it to their meeting the following day and report to me on Monday.

Q. Did Mr. Flavin report to you on Monday?

A. Yes.

[2797] Q. Was that a phone call or a personal call or what?

A. A personal.

Q. What did he say?

A. He said, and he was accompanied by Mr. Mock, he said in effect that the union had accepted the proposition. He didn't have the letter with him, he had the phrasing of the letter. But there would have to be a few things included in the letter to protect the membership. I said: "That was not part of the proposition I submitted to you on Saturday." He said: "Well, that is the way it has got to be".

Trial Examiner Leff: Did he indicate what those few things were?

The Witness: Yes, they were parts from this Form "SLR"

Q. (By Mr. Sinsheimer) Do you know whether or not they were parts of P6(a)?

A. Yes.

Q. Do you have a copy of the provisions which he submitted?

A. I don't believe I have; but I would recognize them if I saw them again. I know the particular paragraph that we objected to at that time.

Mr. Sinsheimer: I ask that this be marked Board's Exhibit 50 for identification, a page, the heading of which is "AGREEMENT"; there are three paragraphs on it, marked (c), (e) and (i).

(Thereupon the document above [2798] referred to was marked Board's Exhibit No. 50 for identification.)

Q. (By Mr. Sinsheimer) I show you Board's Exhibit 50 for identification, Mr. Underhill, and ask you if you have seen that before?

A. Well, I have every reason to believe that these are parts that were submitted to me by Mr. Mock, who said that some part of this, if not all, would have to go in to give them the protection that they wanted and demanded. I objected particularly to (e) which seemed to be the most important one.

Q. What did you say to him about (e)?

A. I told him that I thought that that was a violation, a collusion to get around the law, that we would have no part of it, that it would go deeper than evidence in this paragraph. I thought there was a part of a lock-out involved, and if we ever admitted that it did not constitute a breach of an agreement and, at the same time, we agreed that our workers would not have to work with non-union men, that would mean that our operations would be suspended. We agreed that it was not a breach of the agreement, that we were liable to some financial situation, that remained to be seen what it would turn out to be. Either claims of wages — of course, that is the only thing it could be would be a claim for wages, if we said it didn't constitute a breach of the [2799] agreement.

Trial Examiner Leff: Are you offering that in evidence?

Mr. Sinsheimer: Yes, I will.

The Witness: I think it was suggested at that meeting that the one way to get around it was not to hire any non-union men.

Mr. Van Arkel: I have no objection.

Mr. Sinsheimer: I will offer Board's Exhibit 50.

Trial Examiner Leff: Board's Exhibit 50 is received in evidence.

(The document heretofore marked Board's Exhibit No. 50 for identification was received in evidence.)

Q. (By Mr. Sinsheimer) Is that the extent of your conversation with Mr. Flavin and Mr. Mock on the 13th?

A. Substantially that is all.

Q. After that did you then have a . . .

Trial Examiner Leff: Just a minute, before that. Is this letter that you wanted the union to sign extending the old agreement, was that extending it for a year, for a term of a year?

The Witness: Yes, the working conditions, all the working conditions as they were operating at that time as regards vacations and hours of rest, etc.

Trial Examiner Leff: Did the union state any objection [2800] to extending the contract for a year if these additional clauses were written in?

The Witness: Well, that was my proposition that I told them that the publishers were offering them on Saturday, that the working conditions would remain the same, there would be no change, there would be an increase of Eight Dollars.

Trial Examiner Leff: And that was to be for a period of a year?

The Witness: For one year, as the publishers for a small time were under the impression that we were extending a contract for one year from October 14th or that date, October 12th. Later on we amended it and backed it up to August 19th and that was part of the agreement.

Trial Examiner Leff: Please proceed.

(By Mr. Sinsheimer) Did you then have another meeting with the union?

A. Yes, our next meeting I think was the same week, on the 15th.

Q. Where was that held?

A. At the Athletic Club.

Q. Who was present?

A. Flavin, Mock, Robertson, Underhill, Righter, Clancy and Clother.

Q. What occurred at the meeting?

[2801] A. We renewed our proposition of Saturday.

Trial Examiner Leff: Will you please re-state that proposition.

The Witness: We repeated our offer of the previous Saturday, and then we brought up the letter again, we wanted a letter to carry out this understanding, and the union at that time, or the scale committee at that time brought up the question of protection again, that they had mentioned to me on the previous morning, that something could be worked out that could be more or less filed away,

that there should be some assurance given that we weren't going to hire any non-union men. It became pretty complicated to get around the law.

Mr. Van Arkel: I move that be stricken.

Trial Examiner Leff: Motion is granted, beginning with the words "It became".

The Witness: Well, we were in a position then of having the union accepting the Eight Dollars and renewing the contract on their Sunday meeting, that it was a question then of getting down as to how it was going to be worked out in some agreement form.

Q. (By Mr. Sinsheimer) What did you say to them?

A. Well, apparently that we couldn't agree to any conditions of that part that was suggested to us on Monday or either again on Wednesday.

Q. What part?

[2802] A. The objectionable part as far as the breach of this contract is concerned, that paragraph (e).

Q. Paragraph (e) in Board's Exhibit 50?

A. Yes, They said: "We will have to post Conditions of Employment".

Q. What did you say to that?

A. Well, I put up a rejection as having no part in arriving at the Conditions of Employment. We will object to it because if you put it on the wall in the composing room, including those parts that we think are in violation of the laws, which is the recognition of the I.T.U. laws, we will post a notice that they are not acceptable and we will do it within at least twenty-four hours. It is our contention unless it acted upon immediately that any printer would have the right to believe that we agreed to those Conditions of Employment.

We agreed at that meeting to carry on the contract for one year.

Trial Examiner Leff: Carry on what contract?

The Witness: The renewal of the expired contract for one year, that is not in violation of any State or Federal law. The union at that time informed us they intended to file or post Conditions of Employment or deliver them to Mr. Clancy and to me in person, and discussion centered around whether or not the printers in the two offices knew what the Conditions [2803] of Employment were if they were to deliver them to us and just be put away and forgotten. We felt that some denial should be

made openly by us that the printers had a chance through their officers to find out what the Conditions of Employment were, and if we didn't post them they would never know that we rejected them.

Trial Examiner Leff: Have you finished your answer?

The Witness: Yes.

Trial Examiner Leff: I am somewhat confused by it. You started off by saying that an agreement was reached to renew the contract for one year. Was that agreement reached between the publishers and the union?

The Witness: At that meeting.

Trial Examiner Leff: Was it reduced to writing?

The Witness: No.

Trial Examiner Leff: It was an oral understanding?

The Witness: Yes.

Trial Examiner Leff: Now, if there was an agreement reached, why did the union consider it necessary to post the conditions of employment? Aren't the two contradictory?

The Witness: Yes, they are, it is confusing. It is confusing if you saw it on the wall down there as the notices are posted. The notices as they read now are dated November 2nd. The Conditions of Employment are posted on November 2nd and our rejection is on November 2nd, and we refer to an [2804] agreement reached on October 15th.

Q. (By Mr. Sinsheimer) Well, did the union agree to what you said or was it their understanding of what you had to say?

A. It was their understanding, it was their understanding of our proposition. Now you understand there are things in there that are questionable in using the correct word. We said that we would renew the contract for one year at Eight Dollars across the board, all conditions remaining the same. We would not violate any State or Federal law.

Q. And they understood that was your position?

A. That was our position.

Q. But, did they ever agree to that?

A. I don't think they ever agreed that they wouldn't violate any State or Federal law. That is so worded in our rejection. We said "it is understood"; we did not say that it was agreed to. I don't believe I have ever

heard a man on the scale committee say that he agreed to go into collusion with us not to violate any State or Federal laws, because we had been told repeatedly and repeatedly that at the time we hire a non-union printer they will walk out. Now they couldn't, at the tail end after August 5th to October 15th, turn around and agree they would go into collusion with us against the thing they had been preaching for the six weeks we had been negotiating.

Mr. Van Arkel: I think the last was completely [2805] argumentative, I think it should go out.

Trial Examiner Leff: Well, it was argumentative, it will be disregarded. Does it boil down to this, Mr. Underhill, that the publishers took the position that there was an understanding to renew the former contract, save for provisions that violated the law, for a period of one year, and it is the publishers' position now that the employees are working under that renewal and that the union disagrees with that position and takes a position that it is working under the Conditions of Employment? Does that summarize it?

The Witness: I think that answers it. I gave you my position.

Trial Examiner Leff: I don't want to put words in your mouth.

The Witness: No, but that is exactly what it is. I didn't follow it up, I could have go on and told you what—it is rather a complicated thing, just a couple of words, just the meaning of words, see. The one word is "understood" or "agreed". Now there is a lot involving those two.

Trial Examiner Leff: Actually you are now both working pursuant to separate understanding. As long as there is no clash you won't have any trouble; if there should be a clash why—is that what it is, is that correct?

The Witness: Yes. Now, the day we drew up this agreement to post on the wall it had been corrected, and we tried [2806] to make it a hundred per cent correct so we wouldn't be charged with making anything wrong. We discovered in it that we had the word "agreed". We didn't agree to it, that is our understanding. They didn't agree they wouldn't violate any law, but that is our understanding of what we told them. They can say yes, and acknowledge our understanding, but they didn't agree to it.

Q. (By Mr. Sinsheimer) During your negotiations, did the union representative say anything about working with non-union men?

A. Yes.

Q. What did they say?

A. They wouldn't work with them.

Q. Did they say that in any particular meeting or was that more than once?

A. The earliest is back, the 5th, 6th and 7th meetings, the very first ones, we were told they wouldn't work with any non-union men.

Q. Was there any discussion as to what would occur if a non-union man were hired?

A. Well, assuming that they said they wouldn't work with them I suppose they would leave the same day and show up the next day, but we were given to understand that the day that the non-union man was hired we wouldn't have any printers. At least we wouldn't have them the next day.

[2807] Trial Examiner Leff: I think you should be more specific as to who made the statement and where and when?

The Witness: It was made—those statements that we will not work with any non-union men—to the best of my knowledge was made by all of the members at various times; all of the members on the scale committee have made that statement at one time or another. It wasn't confined to any one man.

I remember Mr. Mock whacking the table—he had been over there with this Five Dollar copy of the Taft-Hartley Act, he had that with him two or three days at those early meetings; at one of the last meetings he took it along and it had disappeared, and at that meeting he whacked the table and said in effect: "We will not work; we are going to protect our interest in the union. We are not going to work with any non-union men. Now it is up to you to get around it if you can".

Q. (By Mr. Sinsheimer) Did anything else occur at this meeting on October 15th?

A. Much was centered around how this notice of the Conditions of Employment was going to be handled, either being posted or—and then we said,—Well, if you post it then, of course, we will reject it. If you give it to me how will the men know what it is about?

Q. What did they say?

[2808] A. Well, they said they didn't intend to have a copy of it, that they had read it at one previous meeting and it would be just as well if it wasn't posted. If it was posted and fell down, Mr. Flavin said: "I have got more to do than go down there and keep putting them on the wall again". So, it was left at meeting that they were going to post Conditions of Employment and we were going to reject them. We were going to pay the money, we were going to make it retroactive and he was coming to the office and give me a copy of it, deliver it in person and not post it.

Q. Well, then what happened?

A. Well, on November 2nd in the afternoon, Mr. Flavin delivered me a copy of the Conditions of Employment, left a copy with me.

Q. What did you do?

A. Pardon?

Q. Go ahead.

A. He left them with me, one copy of the Conditions of Employment. Shortly after that, in a telephone conversation with Mr. Clancy, I learned that he had posted them at the Courier, after he had delivered them to me. I went to the Composing room and posted our rejection on the wall and I called him to let him know what I had done, and said: "I have posted the rejection", and he said: "Well then, if that is what you have done then I will come down and post the [2809] Conditions of Employment in the Composing room."

Q. Did he come down and post them?

A. Yes, the same afternoon.

Mr. Sinsheimer: I will ask the reporter to mark as Board's Exhibit 51 a paper entitled "Conditions of Employment", dated November 2, 1947.

(Thereupon the document above referred to was marked Board's Exhibit No. 51 for identification.)

Mr. Sinsheimer: And, as Board's Exhibit 52, a paper addressed to the Buffalo Typographical Union No. 9 and Employees of the Buffalo Evening News Composing Room, dated November 3, 1947.

(Thereupon the document above referred to was marked Board's Exhibit No. 52 for identification.)

Q. (By Mr. Sinsheimer) Referring you to Board's Exhibit No. 51 for identification, are those the Conditions of Employment which Mr. Flavin handed to you?

A. I believe they are, to the best of my knowledge without reading it all, I believe they are.

Q. They were the same ones posted on the bulletin board in your Composing Room?

A. It would be my opinion they were.

Q. I am referring to Board's Exhibit 52 for identification. Will you state what that is?

A. That is correct, that is a copy of it.

[2810] Q. That is a copy of what?

A. Of the posting of our rejection.

Q. That is a copy of the rejection that you posted on the bulletin board in the Composing Room on November 3rd?

A. Yes, on November 3rd.

Trial Examiner Leff: May I see that, please.

Mr. Van Arkel: No objection.

Mr. Sinsheimer: I offer Board's Exhibits No. 51 and 52.

Trial Examiner Leff: They are received.

(The documents heretofore marked Board's Exhibits No. 51 and 52 for identification were received in evidence.)

Trial Examiner Leff: Is there a Reproduction clause in these Conditions of Employment?

Mr. Sinsheimer: Yes, sir, 36.

Mr. Martin: It doesn't start out with that, but it is in 36 there.

The Witness: In the second paragraph, 36, the second paragraph.

Mr. Martin: Well, it is part of the first paragraph of 36.

Mr. Sinsheimer: I will ask that this paper be marked as Board's Exhibit 53-A and this one as 53-B for identification.

(Thereupon the documents above referred to were marked Board's [2811] Exhibits No. 53-A and 53-B for identification.)

Q. (By Mr. Sinsheimer) Now, has anything occurred since—

Trial Examiner Leff: Did you offer the exhibits yet?

Mr. Sinsheimer: No, I haven't as yet.

Q. (By Mr. Sinsheimer) Now, has anything occurred since these Conditions of Employment and your rejection were posted?

A. Nothing at all.

Q. And you have been operating, publishing the newspaper, after granting an Eight Dollar a week wage increase, is that right?

A. That is right.

Mr. Sinsheimer: Now, I have asked the reporter to mark as Board's Exhibit No. 53-A for identification a statement as to the business and commerce of the Buffalo Courier-Express, and as Board's Exhibit 53-B for identification a statement as to the business and commerce of the Buffalo Evening News. I will stipulate with counsel for Respondent that if duly qualified witnesses were called to the witness stand and duly sworn and testified that they would testify that the matters of fact set forth in Board's Exhibits 53-A and B for identification are true and correct.

Mr. Van Arkel: That is correct.

Trial Examiner Leff: Stipulation is approved.

Mr. Sinsheimer: And I will now offer Board's Exhibits [2812] 53-A and 53-B.

Trial Examiner Leff: The exhibits are received.

(The documents heretofore marked Board's Exhibits No. 53-A and 53-B for identification were received in evidence.)

Trial Examiner Leff: Are you familiar with the hiring practice in your Composing Room?

The Witness: I am not involved; it is something that operates more or less automatically.

Trial Examiner Leff: Do they have a Slip Board practice; do you know what that is?

The Witness: No, I have always referred to it as a Sub List.

Trial Examiner Leff: Maybe we are talking about the same thing.

The Witness: That is the one of getting back to the job according to their priority.

Trial Examiner Leff: In other words, an applicant for employment would have his name listed on that Sub List?

The Witness: Yes.

Trial Examiner Leff: And when his name is reached in priority he is hired by the foreman, is that correct?

The Witness: Yes.

Trial Examiner Leff: That was a practice that prevailed a year ago, isn't that so?

[2813] The Witness: Yes.

Trial Examiner Leff: And does that practice still prevail?

The Witness: As far as I know. Under this arrangement?

Trial Examiner Leff: Yes.

The Witness: Yes.

Trial Examiner Leff: There has been no change in the hiring practice?

The Witness: None at all.

• • •

[2814] • • • *Cross Examination*

• • •

[2820] Q. Would it be fair to conclude from that, Mr. Underhill that the big point of disagreement between you and the union representatives was that you wanted a contract firmly for one year's duration?

A. That is correct.

Q. And that the union didn't want an agreement which was not cancellable on sixty days notice?

A. Well, I couldn't answer that because we have so many other — sometimes we have go from ten days to sixty days, etc. We still wanted a contract for a year.

Q. But the union at various times had suggested—I mean prior to October 10th — the union had also suggested an agreement containing a sixty day cancellation clause, had they not?

A. Yes, before May.

Q. Before May?

A. That is correct.

Q. So that the big point of disagreement between you and the union was your demand for a one year contract and the union's demand for a contract cancellable on sixty days notice, [2821] is that correct?

A. Correct, if it was lawful to draw up the contract. We had the meetings of the minds, it would have to be one acceptable to each side.

Q. Well, of course, but so far as you were concerned, you had no way of knowing whether or not the agreement that Mr. Mock tendered at this meeting of October 10th was legal or illegal, did you?

A. No, I had no way of telling.

Q. So that you were prepared to reject it on the ground that it was cancellable on sixty days notice alone, is that right?

A. That is correct.

Q. So that I take it that the real bone of contention here in this period was the union's insistence on a sixty days cancellation clause and your insistence on a one year agreement, is that right?

A. Yes, that is correct.

• • •

[2822] • • • Q. Well, for many years your employees have been operating under closed shop agreements, is that right?

A. That is true.

Q. Well, in any form of words did the union point out that members of the union had for a long time been accustomed to working only with union men?

A. I believe so, it sounds as though they might have. I'd say yes.

Q. Did they point out at any time that under the Taft-Hartley Act an individual employee had the right to quit work if the circumstances were objectionable to him?

A. Yes.

Q. That point was brought out?

A. Yes.

Q. Did they make it clear that, or did they say in any form of words, that individual members retained the right not to work with non-union men?

A. Yes, that is correct.

• • •

[2823] • • • Q. Well, was anything said that the purpose of this clause was to prevent the breaking up of the union by the substituting of non-union men for union men in the Composing Room?

A. I don't recall it, no.

Q. Would you say that something along those lines was not said?

A. Well, I think it might have been, in a different way. That they didn't permit the employment of non-union men to break up this organization that had been in existence for years and years. They are not going to permit any outsider to come in, that they were going to retain their individual interest in this organization and as individuals. They would act as individuals.

• • •

[2824] • • • Q. Have you, at times in the past Mr. Underhill, operated under agreements with Local 9 that were not approved by the International Union?

A. Yes, for many years.

Q. What years were they?

A. I think up to about five years ago; I should say five or six years ago.

Q. And for how long a period did you operate under agreements not approved by the International?

A. Well, from the beginning of the organization here I don't think any contracts were ever approved up to this six years old period.

Q. Now, do you know whether or not during that time any reprisals were taken by the International Union against the Local Union because it was operating under an agreement which had not been approved?

A. No.

Q. As far as you are aware?

A. Never heard of it.

Q. Had that created any particular difficulty during the time you were operating under a non-approved agreement?

A. None.

Q. I believe you stated that since this understanding was arrived at in the middle of October, that your affairs had [2825] go along smoothly?

A. That is correct.

Q. Have there been any unusual incidents in your Composing Room since that time?

A. No instances that I know of.

Q. Any particular squabbles or differences of opinion of anything of that kind?

A. No, none at all.

Q. Do you know whether or not any disagreement had arisen during that period out of the operation of this understanding Conditions of Employment, or whatever it is?

A. Any grievances, none that I know of.

Q. No grievances at all?

A. None that I know of.

Q. Have your operations continued pretty much as they were before August 22, 1947?

A. That is correct, they have.

Q. During that period have you had any qualified non-union applicants for work?

A. Not that I know of.

Q. In any event, so far as you are aware, you have not discriminated against any non-union applicants during the period?

A. No, that is correct.

Q. I take it that the foremen of your Composing Room have [2826] been traditionally members of the union, have they not?

A. That is correct. At least the one we have now has been there for many years.

Q. Any objection to a continuation of the union man as foreman of the Composing Room?

A. To the future, you mean from here on?

Q. Yes.

A. No.

Q. Did that question arise in the negotiations at all?

A. No — I am not quite sure. It seems to me that some mention was made about the foreman, being a member of the union, hiring somebody, that that would be a breach of the union themselves, that they could take some action against him.

Q. Well, did that discussion lead you to ask in any agreement that the foremen remaining members of the union be taken out of the agreement?

A. No.

Q. With respect to Reproduction work, has any demand been made in the last year or so for the elimination of the — complete elimination — of the Bogus clause, by the publishers?

A. Had we asked for the elimination of it?

Q. Yes.

A. No.

Q. Did that happen in 1947, I mean during these '47 negotiations?

[2827] A. No, we didn't ask for the elimination of it that I recall.

Trial Examiner Leff: You had some discussion about Bogus or Reproduction, what was that relating to, a modification of the clause?

The Witness: The change in the Conditions of Employment, they were tightening up on the Reproduction compared to our expired contract.

Trial Examiner Leff: And you wanted it to be brought into line with the language of the expired contract?

The Witness: That is correct.

• • •

[2830] * * * FRANK J. CLANCY, a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and [2831] testified as follows:

Trial Examiner Leff: What is your full name?
The Witness: Frank J. Clancy.
Trial Examiner Leff: And where do you live, Mr. Clancy?
The Witness: 675 Delaware Avenue, Buffalo.

Direct Examination by Mr. Sinsheimer.

Q. You are employed by the Buffalo Courier-Express, Mr. Clancy?
A. Yes.
Q. What is your position?
A. General manager.
Q. How long have you held that position?
A. 1941.
Q. And before that what was your position?
A. Business manager.
Q. For how many years?
A. Oh, seven or eight I guess.
Q. Now, you participated in negotiations with the Buffalo Typographical Union No. 9?
A. Yes.
Q. And you participated in negotiations in the year 1947?
A. Yes.
Q. Were you present at meetings that began about August 28, 1947?
A. Yes.
[2832] Mr. Van Arkel: I object to this as accumulative, Mr. Examiner. We have been over it once.
Trial Examiner Leff: Do you intend to question Mr. Underhill's testimony in that respect?
Mr. Van Arkel: Yes, I should say we would.
Trial Examiner Leff: Please proceed.
Q. (By Mr. Sinsheimer) About when were those meetings, the end of August?
A. I believe on August 29th, or rather 28th, 29th, and September 2nd.
Q. What occurred at those meetings?
A. Well, there was — we were still talking about Form "A" — or no, not at that time — the Conditions

of Employment were under discussion then and the union had this Conditions of Employment form which they never gave to us, but read excerpts or read the whole thing possibly, and we had a similar form which, I assume, was the same thing; I am not sure. We objected to the Conditions of Employment on the grounds that it was merely an unilateral contract to which we were asked to subscribe, and which had removed the consideration clause which has always existed in our previous contracts, relating to the supply of labor. Also, we expressed the opinion, on which we had legal advice, that various sections were in violation of the law.

Q. Did you make any suggested changes or modifications in [2833] the Conditions of Employment form?

A. Yes, we did, at the suggestion of the scales committee.

Q. The union scales committee suggested that you offer changes?

A. They had asked us to negotiate Conditions of Employment, which we maintained that we could not do, and then they said: "Well, if you have got any changes you want to submit in this form" — which, of course, we hadn't officially seen — "why you just suggest them to us and we will see if we can get them approved or submit them to the International headquarters."

Trial Examiner Leff: Did you tell the union scales committee why you didn't negotiate the conditions of employment?

The Witness: Yes.

Trial Examiner Leff: What did you say?

The Witness: Well, we said that we couldn't negotiate a contract — which we regarded as a contract if we negotiated it — which would be good for twenty-four hours only; also, that it was not a valid contract because there was no consideration in it, no mutuality, and that we had been advised by counsel that it had contained several provisions contrary to the law.

Q. (By Mr. Sinsheimer) Well, did you make certain suggested changes?

[2834] A. Yes.

Q. What were they?

A. Well, we asked them to amend the laws provision to provide that I.T.U. laws be recognized, except any that were held to be in violation of State or Federal statutes.

We asked them to amend the clause saying that members would only work when they considered themselves willing or able — or able or willing — I think that was the form it was in — to amend that to say that they would work only when they were able, and take out the "Considered themselves" and also the "willing" feature.

I believe we also asked them to take out the Limitation of Damages clause, and — or what as the other one—oh, leaving it to the decision of the union in case of lock-out. The original phraseology would make us agree that if they walked out because of anything that they had in mind that it would be a lock-out. We asked it to be amended to be considered by them as a lock-out.

Q. In other words, you asked that the language be changed from the words "be evidence of" that it be "regarded or considered by the union"?

A. That is right, by the union.

Trial Examiner Leff: Did the union have any objection to that change?

The Witness: Well, they didn't commit themselves. They [2835] simply said that they would transmit it to Indianapolis and await their reply.

Q. (By Mr. Sinsheimer) Did they transmit that to Indianapolis?

A. They reported that they did, yes.

Q. When did they report that they did?

A. I believe that was the September 2nd meeting.

Q. Was it on the September 2nd meeting that they reported or that they said they would transmit it?

A. That is September 23rd that they reported on it.

Q. That was at the meeting on September 23rd?

A. Yes.

Q. What did they say at that time?

A. Well, they said they had received a ruling from Indianapolis and read excerpts from it, which said, among other things, that the preamble or the italicized part to the Conditions form must go in that amendment.

Q. What else was heard at the meeting on September 23rd?

A. Well, we submitted to them the list of questions which Mr. Underhill has referred to in his testimony.

Q. Well, what were those questions?

A. Well — I will have to read them — Number 1, will you renew negotiations with us based on your proposal

submitted to us on June 5, 1947, for the basis of a new contract. And the answer was "no".

[2836] Number 2, how about reconsidering and bargaining on our proposals which we submitted to you on August 28, 1947? Again, no.

Number 3, Well, would you consider negotiations on our proposals with the first twelve sections omitted? No.

Number 4, then what you are insisting upon is that your own Conditions of Employment, written by the International Typographical Union, and containing the I.T.U. laws, constitute your only arrangement under which you will work for us — Yes.

Number 5, Even though the I.T.U. laws, which are part of your Conditions of Employment, provide for a closed shop? The answer was Yes.

Number 6, in other words, you will not confer with us except to tell us you will only work in our shop under your own Conditions of Employment as written by the I.T.U.? — No.

7, and that you will not negotiate or bargain with us for a new contract? — No.

And if we did come to an agreement, would you sign a contract with us? No.

Will you submit the dispute between us to an impartial board of arbitration? Which we offered to do — No.

Q. Now, those questions were asked by the publishers, and the answers were given by the union representatives, is that [2837] correct?

A. Yes.

Q. And what else occurred at that meeting on September 23rd?

A. Well, we got into a discussion of wages.

Q. Did you make a wage offer?

A. We had offered Five Dollars at the previous meeting.

Q. You had offered Five Dollars at what meeting, September 2nd, or —

A. The September 2nd meeting, I believe it was.

Q. Or the one towards the end of August?

A. At the September 2nd.

Q. And you made another wage offer at the September 23rd meeting?

A. Yes, sir.

Q. What did you offer at that time?

A. Another dollar, making it six.

Q. Now, after the September 23rd meeting, were you present at any other meetings?

A. Yes, sir.

Q. When was the next meeting?

A. The next meeting was the State Mediator on October 10th.

Q. What happened at that meeting?

A. Well, we outlined the situation that existed up to that point to the mediator and we reviewed the arguments that we [2838] had over Form "A" and Conditions of Employment, told him the wage offer that we had made, and the rejection by the union or by the committee, and we said that we wanted the contract. At that point I believe Mr. Mock took a paper from his pocket and said: "Here is a contract. We will give it to you, but you have got to buy it". So, I said: "Well, let's see it. I don't want to buy a pig in a bag here". He said: "No, how much will you give for it?" "Well," I said, "that is silly."

So then I said: "Does that happen to be the Baltimore proposal which had recently been made to the operators down there?" And I guess he indicated that it was, which was Form P6(a) I guess they called it later, and I said: "That is not a sixty day contract". It was agreed it wasn't, so we indicated that we didn't care to buy a contract that we couldn't see in the first place, and from what little knowledge we had of Form P6(a) we didn't think we would be interested in it at any price.

Q. What else occurred at the meeting?

A. Well, Mr. Finzar, the state mediator, had a private discussion with us and then, subsequently, with the union committee. He came back and said that in his opinion, after talking to the committee, that wages were the big point of difference, and suggested that we try to get an agreement on that point. That was about all that happened at that meeting.

[2839] Q. Were you present at any further meetings?

A. Yes, I was at one on the 15th, I think it was.

Q. The meeting on the 15th of October?

A. Oh, in connection with that meeting with the mediator, he did say that after his talk with the committee he thought they would take Eight Dollars.

Q. And then, after that meeting on the 10th, you had another meeting. Was that on the 15th?

A. Yes.

Q. Was that with the mediator or was that just among the union representatives and the publishers' representatives?

A. That was publishers and union.

Q. At the Athletic Club?

A. Yes.

Q. What happened at that meeting?

A. Well, there had been some telephone conversations, to which I wasn't a party but to which I was notified of, and in which the understanding was that we were to exchange letters, I believe, to the effect that conditions would go on as they had in the past and without any formal agreement, and our letter was to be qualified to the extent that we couldn't subscribe to any violation of the law. At the meeting of the 15th we assumed that the letter was to be submitted; it never was. Mr. Flavin had some notes on a piece of paper, penciled notes on a piece of paper, and a [2840] draft of a letter, but in conjunction with that he had three sections listed from Form P6(a) which he wanted us to agree to.

Q. Did he ask you to agree to those three sections at that meeting?

A. Yes, he did.

Q. Referring you to Board's Exhibit 50, are those the three sections that he asked you to agree to or not?

A. Yes, they are.

Q. What else was said at that meeting?

A. Well, there was talk where the union representative said that we had nothing to worry about, that conditions would go along as they had in the past, and all the terms of the old contract, previous contract, would apply, unless there was a violation on our part. And I said: "How would there be a violation on our part?" And I believe Mr. Robertson, a member of the committee, replied that the violation on our part could consist in hiring non-union men.

Q. Had you ever discussed the hiring of non-union men at any other meeting?

A. Yes, we had.

Q. At what meetings?

A. Well, I couldn't say definitely. I would say that at practically all of them it came up sometime or another.

Q. And what had been said about the hiring of non-union [2841] men?

A. Well, the union representatives made it very plain that they would not work with non-union men.

Mr. Van Arkel: I move that be stricken out, your Honor.

Trial Examiner Leff: Granted.

Q. (By Mr. Sinsheimer) What did the union representative say, Mr. Clancy?

A. I didn't get that.

Q. What did the union representative say?

A. With reference to non-union men?

Q. Yes.

A. Well, they said that they had always operated under the closed shop, that was one of the laws of their union, and they would not violate it by working with a non-union man.

Q. Do you remember which union representative made such a statement?

A. Well, I recall that Mr. Robertson made it on two or three occasions, and I believe Mr. Mock.

Q. Now, at this October 15th meeting, was anything else said?

A. Well, there was a discussion of Conditions of Employment.

Q. What was said about that?

A. With reference to their posting, etc.

Q. Will you state what was said with reference to posting of Conditions of Employment?

[2842] A. Well, Mr. Flavin, I believe, said that they would prefer not to post them on the ground, as he explained it, that if they posted them and we posted a rejection it would cause confusion in the minds of the men; they wouldn't know what it was all about. So, we argued, stating that if they did post them we were going to post the rejection which, in our opinion, would cause less confusion than their proposed method, because they said they were going to supply each member of the union with a copy of those provisions and we inquired as to how the membership would be advised that we had not accepted them, and they said: "We will read it at the union meeting, read your letter".

But, we insisted that they both be posted, and ultimately they were.

Q. Now, did you want them to establish Conditions of Employment at all?

A. Did we want them to?

Q. Yes.
A. No.
Q. So that this discussion of how the Conditions of Employment were to be handled was based on your understanding that the union was going to establish Conditions of Employment one way or another, is that it?
A. Yes, that is right.

• • •

[2843] • • • Q. Now, was Board's Exhibit 51, an identical copy posted in the Composing Room of the Courier-Express?
A. I would say so, yes.
Q. On what day?
A. Oh, November 2nd, wasn't it?
Q. November 2, 1947?
A. Yes.
Q. And, did you post anything in reply?
A. Yes, sir.
Q. Do you have that?
A. Yes, I do.
Mr. Sinsheimer: I will ask that the repor[illegible] mark as Board's Exhibit —
Trial Examiner Leff: Is that the same as 52?
[2844] Mr. Sinsheimer: No, it is not. . . . to mark as Board's Exhibit 54 for identification a paper of one page, addressed to Buffalo Typographical Union No. 9 and Employees of the Buffalo Courier-Express Composing Room.
(Thereupon the document above referred to was marked Board's Exhibit No. 54 for identification.)
Q. (By Mr. Sinsheimer) Now, I will show you the document which has been marked as Board's Exhibit 54 for identification and ask if that is an exact copy of the paper which you posted on the bulletin board alongside the Conditions of Employment?
A. Yes.
Q. And that paper was in answer to the Conditions of Employment, Board's Exhibit 51?
A. Yes.
Mr. Sinsheimer: I will offer Board's Exhibit 54.
Mr. VanArkel: No objection.
Trial Examiner Leff: Board's Exhibit No. 54 is received.
(The document heretofore marked Board's Exhibit No. 54 for identification was received in evidence.)

• • •

[2845] * * * *Cross Examination by Mr. Van Arkel*

Q. Was it your understanding, Mr. Clancy, that you got an agreement along after October 15, 1947?

A. Substantially, an oral agreement, yes.

Q. In your prior negotiations Mr. Clancy, had the union, from time to time, come in and said that we must have this or we must have that and then forgotten about it?

A. Well, do you mean had they proposed certain things and then abandoned them later?

Q. Yes.

A. Oh, yes.

Q. At the time they proposed them and said: "We must have this".

[2846] A. Oh yes, they must have them if they propose them.

Q. Yes, but in your negotiations were the words "must have" of a rather special significance about something that neither party wanted very much but might be willing to get along without?

A. Well, you are referring to Form "A" now.

Q. No, no, I am just talk about your negotiations over the years with the Typographical Union, or with any union for that matter. Has it happened, from time to time, that your or the union has said: "This year we must have this", and then the other side didn't give it so you got along without it?

A. Well, except that it was in the proposals I don't recall that there was any such emphasis on anything, such as — Take this or no contract.

Q. Well, in past years hasn't it happened that either party have come in and said: "This year we must have this clause", and then done without it?

A. I can't recall any clause where they said: "Either take this or no contract".

Q. Well, that wasn't what I was asking about. I was asking about particular terms for inclusion in the contract.

A. I can't think of any. If you have in mind the Laws provision —

Q. The Laws provision or any others.

[2847] A. Well, when they arrived at the point where they must have the Laws provision, they got them.

Q. But, were there other issues where they said they must have them and didn't get them?

A. Oh, they always say they must have so much money, but it is always subject to negotiation — give and take.

Q. And would you say that that use of the word "must" has been fairly common in your negotiations?

A. No sir, I would not.

Q. Would you agree with Mr. Underhill, Mr Clancy, that the chief stumbling block in your negotiations was the difference between you on the duration of any agreement?

A. No, sir.

Q. What do you think it was?

A. There were several points of difference.

Q. What would you say was the most important one?

A. Well, there was no consideration in the contract. Previous contracts had carried a guarantee of labor supply and this had no such guarantee. Previous contracts had carried a Joint Standing Committee to settle disputes arising under the contract; these forms leave it to an ExParte decision of the union.

Q. Was the duration of the agreement one of the chief points of difference?

A. It was a point.

[2848] Q. In any event, as soon as the union indicated its willingness to stabilize the wages for a period of one year, the matter was settled up, was it not?

A. Well, yes, it was.

* * *

Redirect Examination by Mr. Sinsheimer.

Q. Mr. Clancy, when you say you have what amounts to substantially an oral agreement, just what do you mean? Do you mean that you have an agreement concerning economic terms or concerning everything?

A. I didn't get the first part.

Q. Concerning economic terms or everything?

A. Substantially, yes, economic terms.

Q. Do you have any agreement concerning the hiring of non-union men?

A. No, I wouldn't say so.

Trial Examiner Leff: Whose agreement are you operating under now, the agreement that you wanted to enter into, or the Conditions of Employment?

The Witness: Why we feel we are operating under the agreement, and the assurance that was given to us by the president of the union and his associates on the scales committee.

Trial Examiner Leff: And, do you feel on hiring practices you are following now some of the agreement?

[2849] The Witness: The question hasn't come up.

Q. (By Mr. Sinsheimer) Have you hired any non-union men since then?

A. No, sir.

Q. What was your answer?

A. No.

• • •

Recross Examination by Mr. Van Arkel.

Q. Do you have any non-union applicants for work, Mr. Clancy?

A. None that I know of.

Trial Examiner Leff: You wouldn't know, would you?

The Witness: Oh, I think the word would get around.

• • •

[2850] • • • CARL N. FLAVIN, a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Trial Examiner Leff: What is your name, please?

The Witness: Carl N. Flavin.

Trial Examiner Leff: And your address?

The Witness: 69 Hiler Avenue.

Direct Examination by Mr. Van Arkel.

Q. Where are you presently employed, Mr. Flavin?

A. At the Union & Echo Press.

Q. Do you hold any position with Local 9 of the Typographical Union?

A. I am president.

Q. For how long have you been president?

[2851] A. Since February, '45.

Q. Has Local 9 at any time entered into agreements with publishers not approved by the International Typographical Union?

A. You mean an unapproved contract?

Q. Yes.

A. Yes.

Q. When was that?

A. Why prior to 1937 I believe. 1937 was the first approved contract.

Q. Prior to that time the contracts had not been approved by the International Union?

A. That is right.

Q. Was any form of reprisal or any effort to suspend or expell Local 9 made because of the fact it had entered into a non-approved contract?

A. Never, it has a hundred per cent clear record on everything.

Q. It has what?

A. It has a hundred per cent clear record on everything.

Trial Examiner Leff: Do you recall the reasons why the contracts prior to 1937 were not approved?

• • •

[2852] • • • Trial Examined Leff: I understand that, but is there any particular reason why the International did not approve the contracts submitted by Local 9 prior to 1937?

The Witness: Yes, there were different sections in there; I just don't recall what they would be.

• • •

Q. (By Mr. Van Arkel) Mr. Flavin, there is some testimony here about meeting of publishers during 1937, at which the various clauses and Conditions of Employment were discussed. I show you a sheet headed "Schedules and Provisions" . . .

• • •

Mr. Van Arkel: Very well. I will ask the reporter to [2853] mark this sheet entitled "Schedules and Provisions as Respondent's Exhibit No. 14 for identification.

(Thereupon the document above referred to was marked Respondent's Exhibit No. 14 for identification.)

• • •

Q. Were you present at the meetings at which these provisions were discussed?

A. Yes, together we went over it; instead of marking a joint sheet we marked the one sheet.

Q. Now, where "O.K." is indicated beside a section, what is the meaning of that?

A. Well, that meant with the approval of the publishers' representative.

Q. And this was a union proposal, was it not?

A. That is right.

Q. So that this indicated agreement between the publishers and the union on those clauses so marked?

A. That is correct.

• • •

[2854] • • • Trial Examiner Leff: May I see it, please. Respondent's Exhibit 14 is admitted.

(The document heretofore marked Respondent's Exhibit No. 14 for identification was received in evidence.)

Q. (By Mr. Van Arkel) Mr. Flavin, in the course of the negotiations which you had during 1947, did the question of the hiring of non-union men by the publishers arise?

A. No.

Q. Was there any discussion with respect to that matter?

A. Well, during the negotiations there was always a remark made here and there about certain — this is the one that Mr. Clancy and Mr. Underhill related, if that is what you mean.

Q. Well, what was that discussion, as nearly as you recall it?

A. You mean regarding not working with union printers, or union printers not working with the non-union printers, is that what you mean?

Q. Yes.

A. Well, it was my own person opinion is what I said. I said at the time that I, as a union man, would not work with a non-union man. That is my own opinion and privilege.

[2855] Q. Did you ever refer to the provisions of the Taft-Hartley Act in that respect?

A. No.

Q. Was there any discussion of what action Local 9 might take in the event a non-union man or a group of non-union men were hired?

• • •

[2856] • • • A. Well, as far as it was agreed that they wouldn't bring in non-union men, that is, the employers.

Trial Examiner Leff: Who said that?

The Witness: The representatives of the publishers, Mr. Clancy and Mr. Underhill and their committee, that we never had to be afraid of them bringing in non-union men.

Q. Now, what, if anything, did you say with respect to [2857] that matter?

A. Well, just as I said, that if it occurred that a non-union man came on the floor of the Courier, he would be taken in his order. If he passed the necessary entrance examination for a qualified printer he would be admitted as a member of the union.

Q. Was anything further said on that subject, do you recall?

A. No.

Q. Did any other member of the committee say anything about their personal feelings concerning . . .

Mr. Sinsheimer: I will object to the question.

Trial Examiner Leff: Objection sustained.

Q. (By Mr. Van Arkel) What, if anything, did other members of the committee say with respect to this matter?

A. Well, substantially just about what I have related, it is their own personal opinion. That is, a good union man wouldn't work with a non-union printer.

Trial Examiner Leff: Would he be permitted to, under the laws of the International Typographical Union?

The Witness: Under the laws of the I.T.U.?

Trial Examiner: Yes.

The Witness: I would say that the I.T.U. leaves the local union its own autonomous rights to correct anything that comes up.

Q. (By Mr. VanArkel) Now, has Local 9 been prepared to [2858] admit to membership in the union any person who meets the qualifications for competency as a craftsman of the trade?

A. We are always prepared to admit them.

Q. Has that, in fact, been done over the past years?

A. Yes.

Q. How is that handled, Mr. Flavin, are they given an examination?

A. Yes, they are given the customary examination, the final examination, and if they pass with a mark of 75 they are admitted.

Q. Yes, and that examination is set by the union?

A. That is right.

Q. By Local 9?

A. By the International, it is the International examination.

Q. Was there any discussion during the time that you were talking about before with respect to the use of the sixty day cancellation clause in Form "A"? Was that matter gone into?

A. Yes, nearly — at the meetings we went into the sixty day clause. In fact, we were one time here and there and other places; we were all over the place. In other words, we settled about everything except the negotiations. Even the war debt we settled prior to that.

Q. What, if anything, do you recall was said with respect to the sixty day cancellation clause in Form "A"?

[2859] A. The publishers rejected it and we assured them that there wouldn't be any trouble, but they worked under conditions of no contract, or what have you.

• • •

[2860] • • • *Cross Examination.*

• • •

[2867] Q. I believe you said that Mr. Clancy and Mr. Underhill said you didn't have to be afraid of their bringing in non-union men. How did that conversation come about?

A. Well, they assured us that that would be the case, that they — in other words, that they wouldn't, they had no intention of trying to break the local Buffalo Typographical Union, had no meaning to do that.

Q. What you mean is that they told you they weren't going out looking for non-union men?

A. That is right.

Q. Now, the local union can reject an applicant for membership for almost any reason, can it not?

[2868] A. Well, I would say no. The answer to that would have to be broader — to just answer plain "no" doesn't answer the question. It has always been our policy that where there are competent men we want them in the Typographical Union.

Q. Well, do you mean that any typographical, any competent man who would apply, that the Typographical Union would automatically admit him?

A. Well, if he meets the entrance examination and pays the fee, the necessary fee, that is right.

• • •

[2870] Q. (By Mr. Sinsheimer) Now, did you say whenever you brought up the subject of working with non-union men that you had words — "In my personal opinion a union man wouldn't work with non-union men"?

A. That is my own personal opinion, as a good union man I wouldn't work with a non-union man.

Q. Is that what you said? Did you say: "In my personal opinion"?

A. Whether I elaborated on it or not I wouldn't say.

Q. Isn't it more likely that what you said was: "You know that if a non-union man is hired, the union man won't work"?

A. No.

Q. What did you say?

A. I never made a remark like that.

• • •

Redirect Examination.

• • •

[2872] • • • Q. Was there some talk of the need of the union for protecting its continued existence?

A. Oh yes, to protect the union's existence. That would be — you mean in regards to struck work or something like that? Would that be what you are getting at?

Q. Well, was there any talk about that problem?

A. That the publishers said at that time that they never [2873] had contracted for any struck work and they didn't see why they should in the future. They had all they could do to take care of their own.

Q. Was there other talk with respect to that matter?

A. Not that I recall.

• • •

[2883] • • • Mr. Sinsheimer: I will ask whether Mr. Van Arkel will stipulate that the employees covered by, or the persons covered by the contract with respect to Buffalo newspapers were, on August 22nd, and have continued to be, members of Buffalo Typographical Union No. 9, a subordinate union of the International Typographical Union.

Mr. Van Arkel: I so stipulate. I think it clearly appears in the evidence that the foremen are now members of the union.

Trial Examiner Leff: Of the union?
Mr. Van Arkel: Of Local 9.

• • •

[2889] • • • Mr. Martin: I will call Mr. Casey for the Board.

JOSEPH J. CASEY, a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Trial Examiner Leff: What is your full name?
The Witness: Joseph J. Casey.
Trial Examiner Leff: Where do you live?
The Witness: 26 Euclid Avenue, Albany, New York.

Direct Examination by Mr. Martin.

Q. What is your business or profession?
A. Attorney.
Q. How long have you practiced law in Albany?
A. September 1926.
Q. In the course of your practice have you ever represented any of the newspapers in connection with their negotiations with the Albany Typographical Union No. 4?
A. I have.
Q. When did that start?
A. I'd say approximately 1942.
[2890] Q. Will you tell us briefly what type of contract has in the past been negotiated between the papers in Albany and Albany Typographical Union No. 4?
A. Joint contract between the Hearst Albany Times Union Corporation, the publisher of the Times Union, the Press Company, Inc., the publisher of the Knickerbocker News, and the Albany Typographical Union; in other words, a joint contract between the newspapers and the union.
Q. Was there a contract signed in 1946 between the Albany papers and the Typographical Union No. 4?
A. There was.
Mr. Martin: I ask that this document be marked as Board's Exhibit No. 55.

(Thereupon the document above referred to was marked Board's Exhibit No. 55 for identification.)

Q. (By Mr. Martin) Handing you what has been marked for identification as Board's Exhibit 55, will you tell us whether that is a copy of the contract signed in '46 be-

tween the Albany papers and the Typographical Union No. 4?

A. It is.

Q. When did that contract expire?

A. October 31, 1947.

Trial Examiner Leff: Are you offering that?

Mr. Martin: I will offer Exhibit No. 55.

[2891] Mr. Van Arkel: No objection.

Trial Examiner Leff: It is admitted.

(The document heretofore marked Board's Exhibit No. 55 for identification was received in evidence.)

Q. (By Mr. Martin) Was there any provision in that contract with reference to notice on the expiration of the contract, do you recall?

A. Yes.

Q. What was that provision?

A. Provided in Section 1 of the contract, providing "if either party wishes to propose a new agreement, it shall notify the other party to the contract of its wishes at least sixty days but not more than ninety days prior to expiration date, and accompany the notice with a statement in detail of the changes desired".

Q. Now, did you receive any notice, any communication from any representatives of the Albany Typographical Union No. 4 in 1947 concerning a new contract before the expiration of the old contract?

A. We did.

Q. When was that?

A. August 28, 1947. Pardon me—that is correct.

Q. Prior to that written communication had you any communications from any of the representatives of the Union?

[2892] A. Yes.

Q. When was that?

A. Well it was sometimes between June 22, 1947 and July 16, 1947.

Q. What occurred at that time? Was that a meeting or telephone conversation or what?

A. It was a telephone conversation to which I refer.

Q. Who called you?

A. Mr. Stack.

Q. Can you recall any of the conversation?

Trial Examiner Leff: Let's find out who Mr. Stack is.

Q. (By Mr. Martin) Who is Mr. Stack?

A. He is president of the local Typographical Union.

Q. No. 4?

A. Yes. The conversation was for the purpose of arranging a meeting between the representatives of the Times Union and the Knickerbocker News and the Typographical Union.

Q. Was such a meeting arranged?

A. Yes.

Q. When did it take place and where?

A. At our office, 100 State Street, July 16, 1947.

Q. Will you tell us briefly what happened at that meeting?

A. Yes. There was a discussion there about the extension of the then existing contract. Mr. Stack stated that [2893] in May, 1947, the local Union had prepared a proposal for submission to the publishers upon the termination of their existing contract and that this proposal had been forwarded to the office of the International Typographical Union but had not been returned as yet. He stated that the substance of the demands in the proposal were these: An increase in wages; three weeks vacation; 35 hour week on the day side; 32½ hour week on the night side; full equity in vacations; elimination of subdivision 1 of section 46 of the contract—that was a part in the reproduction section; and a demand for pension, hospitalization and group insurance.

Q. Did you make any reply or did any one of the publishers who were there?

A. Yes.

Q. At this time?

A. We declined to accept the proposal on vacation and reduction of hours and stated that the publishers would be prepared to grant an increase in wages, and the publishers declined the pension, hospitalization and group insurance feature of the demand.

Q. Did you state anything with reference to negotiating the contract at that time?

A. Yes. We advised Mr. Stack that we were willing to negotiate a new contract prior to August 22, 1947, which contract would provide for a closed shop. However, we

would not [2894] accede to the demands which I previously mentioned except as I mentioned.

Q. Was there any matter brought up with reference to future meetings at this time?

A. Yes. There was another meeting arranged for the 22nd of July, 1947.

Q. Was there any conversation with Mr. Stack with reference to the time remaining for negotiating a contract?

A. Yes. Mr. Stack mentioned there was very little time remaining for the purpose of negotiating a new contract because he had been appointed chairman of the laws committee for the International Typographical Union convention in Cleveland and was leaving Albany on the 9th of August and would not return until some time subsequent to the 22nd of August.

Q. Now, between that day and the meeting which you have stated was scheduled for July 22nd, did you have any conversation or meeting at all with Mr. Stack?

A. On the 21st day of July, 1947, Mr. Stack gave me a copy of a paper entitled "Agreement Extending Existing Agreement".

Mr. Martin: May I have this marked for identification as Board's Exhibit 56.

(The document above referred to was marked Board's Exhibit No. 56 for identification.)

[2895] Q. (By Mr. Martin) Handing you what has been marked for identification as Board's Exhibit 56, I ask you if that is a copy of the proposal that Mr. Stack gave you on July 21st?

A. It is.

Q. Did you have a meeting on July 22nd?

Trial Examiner Leff: Are you going to offer that?

Mr. Van Arkel: No objection.

Trial Examiner Leff: You are offering it?

Mr. Martin: Yes.

Trial Examiner Leff: It is admitted.

(The document heretofore marked Board's Exhibit 56 for identification was received in evidence.)

Q. (By Mr. Martin) Did you have that meeting on July 22nd then?

A. Yes, we did.

Q. Where was it held and who was represented?

A. It was held in Room 262 at the Hotel Ten Eyck. Mr.

Archibald of the Times Union, Mr. Brennan representing the Times Union and myself, and Mr. Stack of the Typographical Union, Mr. Sano, Feenan, Moffett and Trembley of the Typographical Union.

Q. Tell us what happened at that meeting?

A. Mr. Stack submitted another form.

[2896] Mr. Martin: May I have this marked for identification as Board's Exhibit 57.

(The document above referred to was marked Board's Exhibit 57 for identification.)

Q. (By Mr. Martin) Handing you what has been marked for identification as Board's Exhibit 57 was that given you by Mr. Stack at that meeting—that copy?

A. It was.

Q. I notice this is also marked "Agreement Amending Existing Agreement". I believe the other agreement is "extending". Do you know what the difference is between the two?

A. This agreement which I hold in my hand is identical with Exhibit 56 with the exception that an additional paragraph has been added to this agreement marked paragraph 9.

Mr. Martin: I will offer it in evidence.

Mr. Van Arkel: No objection.

Trial Examiner Leff: Board's Exhibit 57 is received.

(The document heretofore marked Board's Exhibit 57 for identification was received in evidence.)

Q. (By Mr. Martin) Did Mr. Stack present you with anything else?

A. A letter dated July 22, 1947.

Mr. Martin: I ask this letter be marked Board's Exhibit 58 for identification.

[2897] (Thereupon the document above referred to was marked Board's Exhibit 58 for identification.)

Q. (By Mr. Martin) Handing you what has been marked for identification as Board's Exhibit 58, is that a copy of the letter given you by Mr. Stack at this meeting?

A. This is a copy of a letter delivered to Mr. Brennan representing the Times Union. A similar letter addressed to Mr. McDonald, publisher of the News, was presented to me.

Q. Do you have a copy of your letter?

A. I had a letter. They were identical letters.

Trial Examiner Leff: Will you undertake to prepare copies and submit one to Mr. Van Arkel and one to me too, please.

Mr. Van Arkel: No objection.

Mr. Martin: I offer Board's Exhibit 58.

Trial Examiner Leff: Board's Exhibit 58 is received.

(The document heretofore marked Board's Exhibit No. 58 for identification was received in evidence.)

Q. (By Mr. Martin) Did you have any discussion with the Union representatives at that meeting?

A. Beg your pardon.

Q. Did you have any discussion with the Union representatives at that meeting?

[2898] A. Yes.

Q. Will you please state what was said, if you recall?

A. Well, there was a general discussion as I recall it concerning various proposals and counter-proposals, and during the meeting Mr. Stack stated that he would not bargain with the publishers if they were represented by attorneys and stated he was advised by I. T. U. that he had a right to insist on negotiating with the publishers without attorneys. Mr. Brennan and myself stated that both publishers in Albany had been for some years represented by attorneys, by the same attorneys who were now appearing at that time and that the same attorneys had heretofore bound the publishers in negotiations and would continue to bind them in negotiations.

Mr. Sano, who I believe is chairman of the scale committee, made some remark which I don't recall at this moment, and we told Mr. Sano that any statements made by me could be considered the statement of Mr. McDonald and Mr. McDonald was bound by any statement or agreements made by me, and Mr. Archibald stated then that the same situation applied to Mr. Brennan—that any statements made by Mr. Archibald could be considered the statement of Mr. Brennan and he would be bound thereby.

Q. That all happpened at the meeting?

A. That is correct, substantially. I don't recall the [2899] conversation at the moment.

• • •

Q. (By Mr. Martin) When was your next meeting?

A. September 17, 1947.

Q. Do you know why there was no meeting between the end of July and September?

A. Well, I assume that the parties were unable to meet.

Q. Do you know whether Mr. Stack was in town?

A. My recollection was that Mr. Stack was out of town for a considerable period of time between July 22nd and September 17th.

Q. Did you receive any communication from the Union between July and September 17th?

A. Yes.

Mr. Martin: I ask this be marked for identification as Board's Exhibit 59.

(Thereupon, the document above referred to was marked Board's Exhibit 59 for identification.)

Q. (By Mr. Martin) Handing you what has been marked for identification as Board's Exhibit 59, will you tell us what that is?

A. Yes. This is a copy of a letter addressed to Mr. Archibald, publisher of the Times Union, and a similar letter [2900] was addressed to and received by Mr. McDonald of the Knickerbocker News.

Q. Did you make any reply to that letter?

A. We did.

Q. When did you reply?

A. August 30, 1947.

Mr. Martin: I ask this be marked for identification as Board's Exhibit 60.

(Thereupon, the document above referred to was marked Board's Exhibit No. 60 for identification.)

Q. (By Mr. Martin) Handing you what has been marked for identification as Board's Exhibit 60, is that a copy of your reply?

A. It is.

Mr. Martin: I offer Board's Exhibits 59 and 60 in evidence.

Mr. Van Arkel: May I see Exhibit 60?

Trial Examiner Leff: I suggest when you identify letters you do so by date or some other means of identification so that if the exhibits become lost we will know what is what.

Mr. Van Arkel: No objection.

Trial Examiner Leff: Are you offering them both—Exhibits 59 and 60?

[2901] Mr. Martin: Yes.

Trial Examiner Leff: Both Exhibits 59 and 60 are received.

(The documents heretofore marked Board's Exhibits Nos. 59 and 60 for identification were received in evidence.)

Q. (By Mr. Martin) Did you have a meeting on September 17th?

A. We did.

Q. Where was that meeting held?

A. It was in Room 262 of the Ten Eyck Hotel.

Q. Who was present?

A. Mr. Stack, Leonard, Sano, Feenan, Pfister, Tremblay and Moffet, Mr. McDonald, Archibald, Haas, Siefken and myself.

Trial Examiner Leff: What was the date of that?

The Witness: September 17, 1947.

Q. (By Mr. Martin) What happened at that meeting?

A. Mr. Stack presented the management representatives with a statement setting forth the names of the union's negotiators. A similar statement was furnished to Mr. Stack by the publishers' representatives, setting forth the names of the authorized representatives of the publishers.

Q. Was there any discussion of the Union's letter of [2902] August 28th at that meeting?

A. Yes.

Q. Will you tell us what that was?

A. The attention of Mr. Stack and the scale committee was called to the second part of the Union's letter of August 28th, 1947, wherein it was stated that the Union had offered to meet and confer for the purpose of "negotiating" conditions of employment, and the publishers' representatives said they were there for the purpose of negotiating a contract, and they further pointed out there was no reference in the Labor Management Relations Act as to negotiating conditions of employment.

Mr. Stack then handed the representatives of the publishers another statement—typed statement.

Mr. Martin: I ask this be marked for identification as Board's Exhibit 61.

(Thereupon the document above referred to was marked Board's Exhibit No. 61 for identification.)

Q. (By Mr. Martin) Handing you a memorandum marked Board's Exhibit 61 for identification, the first words of which are, "We propose there be no signed, verbal or any other kind of a contract", is that a copy of the memorandum handed you at that meeting by Mr. Stack?

A. It is.

[2903] Mr. Van Arkel: No objection.

Mr. Martin: We will offer it as Board's Exhibit 61.

Trial Examiner Leff: Board's Exhibit 61 is received.

(The document heretofore marked Board's Exhibit No. 61 for identification was received in evidence.)

Q. (By Mr. Martin) Was there any discussion with reference to conditions of employment?

A. Yes.

Q. Will you tell us what that was?

A. The publishers' representatives asked for a copy of the "Conditions of Employment", and Mr. Stack stated that he had no copy.

Q. Did you have—have you finished your answer?

A. Yes.

Q. Did you have any discussion with reference to the memorandum which was marked Board's Exhibit 61?

A. Yes.

Q. What was that?

A. The publishers' representatives stated they were there for the purpose of negotiating the terms of a contract which would be reduced to writing and signed by both parties. Mr. Stack replied that the Union does not wish a contract. Then inquiry was made of Mr. Stack what was meant by the term "Conditions of Employment". Mr. Stack [2904] replied that "Conditions of Employment" would be similar to an agreement but would be unilateral action on the part of the Union. The publishers' representatives stated that they desired to continue past relations on the basis of a written contract insofar as such contractual relations was consistent with the Labor Management Relations Act. Mr. Stack about that time requested Mr. Leonard to read a document to the meeting.

Mr. Martin: I ask this be marked Board's Exhibit 62 for identification.

(Thereupon, the document above referred to was marked Board's Exhibit No. 62 for identification.)

Q. (By Mr. Martin) Handing you what has been

marked for identification as Board's Exhibit 62, a document headed at the top "Empire Typographical Conference, To Officers and Local Unions", is that a copy of the document read by Mr. Leonard at that meeting?

A. It is.

• • •

[2906] • • • (The document heretofore marked Board's Exhibit 62 for identification was received in evidence.)

Q. (By Mr. Martin) Did they make any further statement concerning that document?

A. Yes.

Q. What was that?

A. Mr. Stack stated that the Union's representatives were present on the basis of the policy just read, and either Mr. [2907]— one of the publishers' representatives —I think it was Mr. Siefken, asked Mr. Stack if the term, "Conditions of Employment" mentioned in the exhibit just referred to were synonomous with the term "Conditions of Employment" which appeared in the document heretofore received in evidence.

Q. Were you talking about the memorandum which they had previously mentioned to you in which they referred to "Conditions of Employment"?

A. Yes. Mr. Stack said they were synonomous, and I think a request was made at this time for a copy of the "Conditions of Employment", which Mr. Stack did not furnish.

Q. Was there any further discussion with reference to "Conditions of Employment" at that meeting?

A. Yes. It was suggested by Mr. Stack that the Union and the publishers each post their own conditions of employment.

Q. What was your position with reference to that?

A. The publishers' representatives declined this suggestion.

Q. Did you tell them why?

A. On the ground that the Union's conditions of employment were expressly stated to be not an offer but more important because of the strong likelihood of certain conditions of the two sets of conditions would conflict.

Q. Did you at any further time in this meeting ask Mr. Stack for a copy of their conditions of employment?

[2908] A. I think there were requested on two or three occasions during that meeting.

Q. Did he give you any reason for failing to give you a copy?

A. Not that I recall, Mr. Martin.

Q. Was there any statement by Mr. Stack concerning negotiating conditions of employment?

A. No. I think any reference to conditions of employment he stated would be unilaterally imposed.

Trial Examiner Leff: Did he offer to discuss them with you?

The Witness: Discuss the conditions of employment?

Trial Examiner Leff: Yes.

The Witness: Well, we were unable to obtain a copy of the conditions of employment so obviously we were unable to discuss them.

Trial Examiner Leff: Thank you.

Q. (By Mr. Martin) Did you state what your position was again at this meeting?

A. Yes.

Q. What was that?

A. We stated that we proposed the present contract modified as required by the Labor Management Relations Act.

Q. Did the Union make any response to your proposal?

A. Well, further in that connection there was an inquiry [2909] made of Mr. Stack if the Union would sign a contract if an agreement was reached, and Mr. Stack replied that the Union would sign a contract if an agreement was reached.

Q. Did you—

Trial Examiner Leff: Will you read that answer please.

(The last answer was read by the reporter.)

Q. (By Mr. Martin) Did you have any discussion with regard to this?

A. There was a considerable discussion—considerable statements, I should state, on the part of the publishers' representatives that the position which he had just stated, namely, he would sign a contract, was apparently inconsistent with all prior statements made by him and inconsistent with documents heretofore referred to which were prior to this meeting presented to the publishers' repre-

sentatives. He repeated, however, that the union would sign a contract if agreed.

Q. Did you at that time make any examination of or go through any provisions of your old contract?

A. Yes. It was suggested that the present contract be examined.

Q. Was that done?

A. An examination was undertaken.

Q. What happened then?

A. Section 1 was discussed and there was a particular [2910] discussion about changing dates, namely, from November 1st the date of the contract obviously would be changed from November 1, 1947 through October 31, 1948. The other provisions of that section at that time were laid aside for further discussion. Section 2—

Trial Examiner Leff: Before you go on, what was said about extending the contract to November 1, 1948, what was the position of the respective parties?

The Witness: At this time?

Trial Examiner Leff: Yes.

The Witness: If I recall correctly the only understanding we reached at that particular time, if I may use the word, was the change of this one date November 1, 1947 through October 31, 1948, and I think it was discussed that the remaining provisions of Section 1 depended upon other details that would have to be settled before Section 1 could be agreed upon in its entirety.

Trial Examiner Leff: Well, did Mr. Stack indicate that the Union was willing to extend a contract for one year?

The Witness: Mr. Stack made no such statement.

Trial Examiner Leff: Was there agreement or disagreement as to that before you passed on to Section 2?

The Witness: At that particular time I don't recall the terms of the contract being discussed. It was laid [2911] aside for further discussion at that particular time.

Trial Examiner Leff: Did Mr. Stack express opposition to extending the term to November 1948?

The Witness: At that time?

Trial Examiner Leff: Yes.

The Witness: I don't recall any definite statement of opposition.

Trial Examiner Leff: Will you proceed, please.

Q. (By Mr. Martin) Did Mr. Stack state his position in any way, whether he agreed or disagreed?

A. My recollection is that Section 1 was discussed very briefly and lightly because, obviously, it was a section that required only a change in dates and such other changes that might become necessary by virtue of the Taft-Hartley Act.

Q. Did you then go to Section 2?

A. Yes.

Q. What was your discussion with reference to said Section 2?

A. We asked Mr. Stack if that section was agreeable and Mr. Stack stated that the committee representing the union had no authority to agree. The only power they had was to take back to the Union any proposal made. The publishers' representatives called the attention of the union's committee to the fact it had been traditional to take up [2912] the contract section by section and at least arrive at a tentative agreement. Mr. Stack replied that they had no authority to tentatively agree and would not agree unless an entire proposal was in front of them. The publishers' representatives further pointed out that it seemed rather silly not to be able, at least tentatively, to agree upon Section 2 as Section 2 provided where notices were to be forwarded under the terms of the contract, were to be sent; in other words, the addresses of the parties. After considerable discussion the publishers representatives stated that if the union's committee would not at least tentatively agree where notices were to be sent under the contract, it seemed futile to spend any further time going through the contract.

Q. Mr. Casey, you had been present during past years on negotiations, had you not?

A. I had.

Q. What had been the ordinary practices with reference to negotiations in previous years?

A. In what connection?

Q. In other words, how had you gone about studying proposed changes in connection with your contract?

A. Well, we would go through the contract, the then existing contract, the proposals of the Union and the counter-proposals, if any, of the publishers, make a list of

those [2913] sections which were not in dispute, then make a list of the sections of the present contract, or the Union's proposals or the counter-proposals that were open, and then discuss the disputed sections one by one, first confining ourselves to conditions of employment and then wages and allied subjects such as hours, vacations, et cetera, until the conditions of employment had been tentatively agreed upon.

* * * *

Q. (By Mr. Martin) Maybe I can put it a different way. In going through a contract in past years, in the event the publishers and the Union found themselves substantially in agreement on a section, what would be the process under which you then handled it?

A. The process, as I recall it was the understanding by [2914] specific statement on both sides, that any and all agreements made during the course of negotiations were tentative. In other words, any agreement made on any section was tentative until the whole contract was agreed, so that any sections upon which there was a meeting of minds between the Union's committee and the publishers' representatives were assigned the definition "tentatively agreed".

Q. Was that position followed by the Union at this meeting?

A. No.

Q. In what respect was it different from previous years?

A. Well, the Union's position during these negotiations was they had no power to tentatively agree, and the only power they had was to take back to the Union any proposal made, and furthermore, they would not agree unless an entire proposal was in front of them.

Q. Anything else happen at that meeting?

A. Well, there was a suggestion made that Mr. Stack and Judge Rubenstein, who were present at this meeting, join with the Publishers' representatives in attempting to prepare a contract which would comply with the Labor Management Relations Act. That suggestion was declined by the Union's representatives. There was some discussion about the publishers' representatives making a proposal. It was pointed out by the publishers' representa-

tives that there [2915] seemed no point in their making a proposal in the view of the International Typographical Union's policy and the written proposal of the Union that there should be no signed, verbal or any other kind of a contract. I think at this meeting, however, that I did say that I would attempt to prepare a proposal that I thought would comply with the Taft-Hartley law for submission at the following meeting.

Q. When was the next meeting held?

A. The next meeting was held on the 26th day of September 1947.

Q. Were substantially the same people present?

A. Except Judge Rubenstein was not present at this meeting.

Q. Will you tell us what happened at that meeting?

A. At the opening of this meeting the publishers' representatives read and presented a statement to the Union's representatives.

Trial Examiner Leff: What is the date of this meeting?

The Witness: September 26th.

Mr. Martin: I ask this document be marked for identification as Board's Exhibit 63.

(Thereupon the document above referred to was marked Board's Exhibit No. 63 for identification.)

[2916] Q. (By Mr. Martin) Handing you what has been marked for identification as Board's Exhibit 63, the first line reading, "Management has proposed the present contract modified, etc.", I will ask you if that is a copy of the memorandum you gave to the Union at that meeting?

A. That is correct.

Mr. Martin: I will offer Board's Exhibit 63.

Mr. Van Arkel: No objection.

Trial Examiner Leff: Board's Exhibit 63 is received.

(The document heretofore marked Board's Exhibit No. 63 for identification was received in evidence.)

Q. (By Mr. Martin) Did the Union make any comment on that memorandum?

A. Mr. Stack's response was that the Union was standing on I.T.U. policy.

Q. Did you have any further discussion with reference to the contract at that time?

A. To a contract.

Q. To a contract?

A. Mr. Stack was asked if it were not true that certain provisions of the present contract—rather, Mr. Stack was asked if it were not so that the Union would insist upon certain provision in the present contract even though the same were invalid under Taft-Hartley. Mr. Stack then [2917] stated the Union could do without a contract.

Q. Did you at that time point out what sections you were referring to or not?

A. I don't recall whether we specifically referred to these sections or not—to any section or not.

Q. What else happened at this meeting?

A. Mr. Stack was asked by Mr. Siefken various questions referring particularly to the final report of the I.T.U. reading, "Upon expiration of existing contracts * * * our members may accept employment only from employers who are willing to employ them under 'Conditions of Employment' ". Mr. Stack stated that the Union was not following that portion of the I.T.U. policy, and stated that he didn't intend to answer questions all afternoon, or some such words, and stated that "we can get along without a contract without a lot of trouble". It was requested again for a copy of the "Conditions of Employment" which were not furnished.

Q. Did you have any further discussion about your proposal?

A. About the proposal?

Q. That is right—about any proposal that you might make?

A. There was some discussion at that meeting about the struck work provision of the present contract, and Mr. Stack stated that any proposal presented to the local union [2918] would have to be measured against I.T.U. policy.

Q. Did he state in what respect this would have to be measured against I.T.U. policy?

A. I don't recall any specific reference.

Q. Was there any further discussion at that meeting?

A. Yes. Mr. Stack at this meeting stated he would withdraw what we have referred to as Exhibits B and C.

Q. I believe those are our Exhibits 61 and 62, is that correct?

A. That is right. Mr. Stack further stated the policy set forth in Exhibit C, which is your 62, was no longer I.T.U. policy.

Q. Did he state what the I.T.U. policy was?

A. Not that I recall. I think the only recollection—the only statement in this respect that I recall presently was that a statement was made when and how the I.T.U. policy was revoked and no definite answer given by Mr. Stack, some reference, I think, of pulling it out of the air, or some such statement as that.

Q. What next happened at that meeting?

A. There was a request again for a copy of the "Conditions of Employment" which was refused. Then Mr. Siefken had in his possession certain I.T.U. postcard bulletins, and he was questioning Mr. Stack with reference to what extent the local union found itself bound by I.T.U. policy as [2919] expressed in the so-called postcard bulletins. Mr. Siefken also referred to Proposition 107 approved by the I.T.U. convention, and asked Mr. Stack to state the Union's position in the light of Proposition 107.

• • •

[2920] • • • Q. (By Mr. Martin) Did Mr. Stack make any reply?

A. I don't recall any reply being made by Mr. Stack at that point.

Q. What next happened at the meeting as you recall it?

A. The publishers' representatives suggested that the [2921] parties begin to negotiate as they had in the past, and reference was made to the present contract, and the publishers' representatives stated that the Union in serving its notice had failed to furnish a statement in detail of the changes desired, as provided by the present contract, and I think either Mr. Stack stated that that was a notice terminating the contract, or in answer to a question by Mr. Siefken or myself he stated it was a notice terminating the contract.

In connection with the discussion about the advisability of reviewing the then existing contract or the present contract for suggested changes to comply with the law, Mr. Stack stated that the I.T.U. policy had been changed and that he might be in a position to make a proposal.

Q. Did he say what that would be?

A. At that time I don't think he did.

Q. Did you have some further discussion then about your existing contract?

A. Yes. Sections 2 and 3 were again taken up and Mr. Stack again remarked, "We cannot approve anything, we have to take it back to the Union". He further stated, "We cannot agree with you that this is an agreement", and attention was again directed to the fact that Section 2 was an innocuous, simple section, merely providing for addresses [2922] of the parties and it seemed ridiculous that the section could not be agreed upon.

• • •

Q. (By Mr. Martin) Did you have any further discussion?

A. Section 3 was generally discussed and during the discussion Mr. Stack stated that there had been a change of policy by the International Typographical Union. We asked Mr. Stack what the change of policy was, and he said that he was not at liberty, as I recall it, to discuss the same. We then stated—I say "we", the publishers' representatives then stated it seemed silly to spend any further time at this meeting if there had been a change of policy by the I.T.U., and it was suggested at that time by Mr. Stack, or stated by Mr. Stack that a counter-proposal be brought in by Mr. Stack in view of the change of policy by the I.T.U., [2923] and thereupon the meeting was adjourned to October 3, 1947.

Q. Did the next meeting take place on October 3rd as tentatively agreed upon or not?

A. No, it did not.

Q. Did you hear from Mr. Stack in the meantime?

A. Yes. On Monday, the 29th of September. I had a telephone conversation with Mr. Stack in which Mr. Stack stated that the information which furnished the basis for the intended counter-proposal had not been received by him from the I.T.U. headquarters in Indianapolis; that it was in the hands of the printer, and it was doubtful if it would be received before Friday, October 3rd, and he further stated that he would have to submit the counter-proposal to a local union meeting on Sunday to obtain authority to offer the same to the negotiating sessions, and it was suggested that the meeting be adjourned to October 6, 1947. I don't know whether October 6th was agreed upon

in this telephone conversation or at some subsequent conversation after I had talked with Mr. Archibald or representatives of the Times Union.

Q. Was there a meeting held on October 6th?

A. There was.

Q. Were substantially the same people present?

A. Yes. Mr. McDonald was not present at this meeting.

Q. Did the Union submit a written counter-proposal at [2924] that meeting?

A. No.

Q. What happened?

A. Mr. Stack asked the publishers' representatives what they had on their minds, and the publishers' representatives reminded Mr. Stack that the meeting had been called for the Union to make a counter-proposal, and Mr. Stack stated that the Union's counter-proposal had not as yet been received by him from the printer. Then he stated that the counter-proposal would not be a change in I.T.U. policy when it was ready.

Q. Did you ask what form that proposal would be in?

A. Yes. Mr. Siefken asked Mr. Stack if the counter-proposal would be the same or similar to the proposal made by the Baltimore Typographical Union to the Graphic Arts League. Mr. Stack stated he had no information regarding the Baltimore situation. Mr. Stack again invited the publishers' representatives to make an offer, and the publishers' representatives stated they had offered the present contract except for sections inconsistent with the Labor Management Relations Act and they were ready to receive the Union's counter-proposal. Mr. Stack stated that the counter-proposal would have to be submitted to the Union membership before being submitted to the publishers, and as further suggested that no further meeting be [2925] scheduled until they communicated with the publishers' representatives. However, upon further discussion another date was agreed upon tentatively, and that date was October 15, 1947. There was some discussion about whether or not Mr. Stack had notified the U. S. Mediation and Conciliation and State Mediation in accordance with the 30 day provision of the Act, and he advised the publishers' representatives that he had sent such notice.

Q. Did you have a meeting on October 15th?
A. Yes.
Q. Were the same people present?
A. Except Mr. McDonald.
Q. Where was that held do you know?
A. Ten Eyck Hotel, if I recall correctly. It was the Ten Eyck Hotel.
Q. Tell us what happened?
A. Upon the opening of the meeting Mr. Stack presented to the publishers' representatives a telegram—yes, a telegram.
Q. Can you recall what was in that telegram?
A. Yes, I made a copy of it.
Q. Will you state what it contained?
A. The telegram was addressed to John J. Stack, President, Albany Typographical Union No. 4, Albany, New York.

> "Regret inability to comply with [2926] request for immediate action on proposed contract as all council members in Baltimore. It will be reviewed soon as possible."

The telegram was signed by Harry R. Reifin, Secretary to the President.

Mr. Stack in connection with the telegram stated he hoped to receive prior to our meeting an approval of the Union's counter-proposal to be submitted to the publishers. He stated at that time that he would present to the publishers' representatives a counter-proposal with the distinct understanding that the agreement had not been approved by I.T.U. headquarters, and with that understanding a counter-proposal was presented.

Mr. Martin: May I have this marked for identification as Board's Exhibit 65.

> (Thereupon, the document above referred to was marked Board's Exhibit No. 65 for identification.)

Q. (By Mr. Martin) Handing you Board's Exhibit 65, consisting of 17 pages, a document entitled "Proposed Agreement, et cetera", is that the document which was handed to you by the Union on that day?
A. This is a copy of a document that was handed to us that day.
Trial Examiner Leff: Are you offering it?

[2927] Mr. Martin: I will offer it.

Mr. Van Arkel: No objection.

Trial Examiner Leff: Board's Exhibit 65 is received.

(The document heretofore marked Board's Exhibit No. 65 for identification was received in evidence.)

Q. (By Mr. Martin) Was there any discussion with reference to that at this time?

A. Yes. I looked through the exhibit very quickly and called Mr. Stack's attention to the fact there was no underwriting clause in the contract, and Mr. Stack stated that the International Union would not underwrite a contract and that I.T.U. would have nothing to do with it. Then there was a discussion concerning—a brief discussion—concerning paragraphs (a) to (i) of the proposed agreement submitted by Mr. Stack. Mr. Stack pointed out that I.T.U. policy might change and consequently necessitate a change in language in paragraphs (a) to (i); that this form had not as yet been approved by the International Typographical Union and was a local proposition.

Q. Mr. Casey, in recent years had your contracts with the Albany Typographical local been approved by the International?

A. I think I can recall one year when the contract was not approved or underwritten. Every other year, [2928] since my personal acquaintance with the situation it has been approved or underwritten.

Trial Examiner Leff: Do you recall why it was not underwritten that year? Was there a clause that the International objected to?

The Witness: I think there was dispute about the language of the underwriting or approval clause. The clause, I think, that was completed by the International Headquarters was a mere statement that the within contract or above contract "is hereby approved as in compliance with the general laws of the Constitution and general laws of the International Typographical Union", or some such language. I think we objected to that because prior thereto the underwriting or approval clause contained language to the effect that the contract was approved and that the International Typographical Union—I don't know whether the language was agreed to, it was some stronger language which I don't recall at the moment.

Trial Examiner Leff: All right. Go ahead.

Q. (By Mr. Martin) Did you say anything further with reference to the form we just handed you?

A. I think there was some brief reference made to it, that it seemed to be violative of the Taft-Hartley law, but we stated that it would require time on the part of the publishers' representatives to study the counter-proposal [2929] and the publishers' representatives suggested an adjournment for that purpose.

Q. Subsquent to that meeting did you study that form?

A. We did.

Q. Then when was your next meeting?

A. Next meeting was on the 23rd of October 1947.

Q. Were the same people present?

A. They were.

Q. At this time did you go over this form with the Union's representatives and make any comments on it?

A. We did.

Q. Look at it and state what you told the Union with reference to the various sections?

A. The publishers' representatives advised Mr. Stack and the scale committee that the publishers objected to the preamble to this form which was referred to as P6(a), and called attention to the fact that the preamble provided for a 60 day contract. We told Mr. Stack that we were opposed to a 60 day contract; that we have always had a year's contract; that we still desired a year's contract that a 60-day contract would not be conducive to sound and stabilized industrial relations, and to stabilize industrial relations between the plants of these two employers we felt the minimum term of the contract should be for a year. Mr. Stack replied that the Union liked the 60 day provision.

[2930] Q. Did he say why they liked it?

A. I don't recall any discussion or any reference given to it at this time. In discussing P6(a) the publishers' representatives stated that there was no objection on their part to recognizing the Union as the exclusive bargaining representative but stated that the phrase "of all employees subject to the latter's jurisdiction" contained in Section (a) was objectionable in that the Union could at any time claim jurisdiction over any employee, other than those employed in the publishers' composing rooms, and that the result would be a changing of the appropriate unit.

Q. Did you make—go ahead, I'm sorry.

A. With further reference to paragraph (a) there was a statement that it ignored the employee's right to discuss grievances with the publishers as provided by the Labor Management Relations Act. A suggestion or amendment was submitted by the publishers to (a).

Q. What was that amendment?

A. Reading as follows:

> "(a) Party of the first part hereby recognizes the party of the second part as the exclusive representative, in accordance with Section 9a of the Labor Management Relations Act of 1947, of all printers employed in the composing [2931] rooms of the party of the first part."

Q. Did the Union make any comment with reference to your suggestion?

A. Mr. Stack stated that the Union would take the proposed change under advisement but stated that the "union will continue to define its own jurisdiction and will determine jurisdiction unilaterally".

Q. Was there any discussion then with reference to Section (b)?

A. Yes. It was pointed out by the publishers' representatives that Section (b) would require the publishers to recognize the Union's right to formulate laws, rules and decisions controlling its members in seeking or accepting employment, and not to interfere in the observance of such laws. The publishers' representatives advised the Union that they could not accept Section (b) in view of the fact that I.T.U. laws might conflict with the Labor Management Relations Act. The publishers' representatives brought up the possibility of the Union making a rule which would require its members not to take a job in a shop where non-union members were employed or making a rule requiring its members to strike unless a non-Union member was not hired. Mr. Stack's reply was that "we want to control our members".

Q. Did you have any discussion with reference to Section (c) at this time?

[2932] A. Yes. In connection with Section (c) there was a discussion about what the term "not in conflict with law" meant. The question was asked whether the term "law" meant the I.T.U. law or the laws generally, that

is, the law of the land. There was rather an indefinite discussion as a result. There was some questions asked as to who would determine whether or not there was any conflict and in what form that conflict would be resolved, and as a result Mr. Stack stated it would probably be interpreted by the Executive Council of the International Typographical Union.

Q. Did you make any objection to that?

A. Yes. We didn't wish to be bound by the interpretations of the Executive Council of the International Typographical Union in that respect.

Q. Did you then discuss Section (d)?

A. Yes. The publishers' representatives stated that in their opinion Section (d) provided for a closed shop in that the Union's definition of journeymen and apprentices would be Union members only, thus creating a closed shop and ignoring the provision of the Labor Management Relations Act requiring a referendum election to authorize bargaining for a union shop.

Q. Did you make any comment with reference to whether or not you thought Section (d) was legal or not?

A. Yes. We stated that it was in violation of the L.M.R.A.

[2933] Q. Did you have any further discussion on any part of Section (d)?

A. There was also a discussion of the 10 day cancellation notice provided in (d).

Q. What was that discussion?

A. That the publishers' representatives objected to the 10 day notice of cancellation and that certainly was not conducive to the stabilization of industrial relations. There was a further objection raised to the clause of Section (d) "outside assistance" in settling differences, our objection being that the language would exclude the National Labor Relations Board.

Q. Did you discuss Section (e)?

A. Yes, we discussed it and stated that Section (e) had for its intent the forcing of a closed shop and in that respect was as objectionable as Section (d).

Q. Did you make any comment as to whether or not you felt Section (e) was legal or not?

A. We stated in our opinion Section (e) was a violation of the L.M.R.A.

Q. Did Mr. Stack make any comment with respect to that?

A. I don't recall, Mr. Martin.
Q. Did you have any discussion of Section (f)?
A. Yes.
Q. What was that?
[2934] A. We said that we thought we could accept Section (f) amended as follows and we suggested this amendment.

> "The parties further agree that no member of the Union, second party hereto, shall be required or expected to cross a picket line established by any subordinate Union of the I.T.U. if the members of such subordinate union are engaged in a strike ratified or approved by a representative of the striking employees whom his employer is bound to recognize under the provisions of law."

Mr. Stack stated that he thought the Union might accept the suggested change but stated it would have to be submitted to I.T.U.
Q. Did you make any comment as to what you felt was wrong with Section (f) as contained in the contract—in the proposal?
A. Yes. We said we thought, in our opinion, it was a violation of Section 8(b)(4)(D) of the L.M.R.A.
Q. Did you have any discussion with respect to Section (g)?
A. Yes. We stated we objected to that on the ground that the Union could define any condition as substandard, including an open or non-closed shop and we asked Mr. Stack if he could define substandard and he referred to [2935] wages, hours and social benefits as being the criteria to determine substandard conditions.
Q. Did you make any comment on his definition to him?
A. We stated that we didn't feel those examples constituted a definition of the term substandard and that any situation could be defined by the Union as substandard to the extent it was inconsistent with union desires or I.T.U. law. We also objected to the 10 day privilege provision contained in (g).
Q. Why did you object to the 10 day privilege provision?
A. For the reasons I previously mentioned in connection with (d), that it was not conducive to stabilize industrial relations.

Trial Examiner Leff: Any discussion about changing that to 60 days?

The Witness: I don't recall of any, sir.

Q. (By Mr. Martin) Did you make any comment on Sections (h) and (i) to the Union?

A. We stated something might be worked out on Sections (h) and (i). However, we mentioned that $25 ceiling on damages and the exclusive remedy provisions of those sections would have to be considerably modified if not eliminated before we could agree to similar provisions.

Q. Did you give any reason for your objection to the $25 limitations?

[2936] A. I don't think we did at that time, Mr. Martin.

* * *

Q. (By Mr. Martin) Did you have any further discussion with the Union at that time with reference to P6(a)?

A. I have forgotten where I was.

Trial Examiner Leff: We had just finished going through to Section (i).

A. Oh, yes. The representatives of the publishers asked the Union's committee and Mr. Stack if form P6(a) could in any way be changed by the Union. It was stated the reason for that question was that it was felt by the publishers' representatives that the local union could not in any way change Form P6(a), and the Union's representatives in substantiation of their position in this respect they would like and did read a notice dated October 6, 1947.

Trial Examiner Leff: Who read the notice again?

The Witness: One of the publishers' representatives.

Trial Exaimner Leff: I see.

Q. (By Mr. Martin) Referring you to what has previously been introduced in evidence in this case as Board's Exhibit [2937] 7-B, a communication mailed from the International Union to all subordinate unions dated October 6, 1947, is that the communication you had reference to and read to the union's members?

A. It is.

Q. Did the Union make any comment on this?

A. Yes. During the discussion Mr. Stack stated that the International Typographical Union in its convention decided that the I.T.U. Executive Council could interpret I.T.U. policy as it saw fit and that the I.T.U. strategy

was changing from day to day. The publishers' representatives stated that insofar as they knew the notice of October 6, 1947, just referred to, was the latest in I.T.U. strategy, and the publishers' representatives repeated the statement that in their opinion the local union was unable to change sections (a) through (i) or in any way change form P6(a). Mr. Stack stated that he was authorized to take any suggestions made by the publishers or their representatives and submit them to the I.T.U. attorneys.

Q. Was there any further conversation at this meeting with reference to any other matters?

A. Yes, there was. Mr. Stack called attention to the fact that the expiration date of the contract, October 31st, was coming up and that no counter-proposal had been submitted by the publishers' representatives. The publishers' [2938] representatives stated that they had submitted as their counter-proposal the present contract except such provisions as were inconsistent with L.M.R.A. At that point Mr. Sano, one of the members of the scale committee, asked, "Why sign a contract which would be subject to different interpretations anyhow. We're for Conditions of employment", and Mr. Stack stated, "We won't have a contract anyhow". In reference to P6(a) Mr. Stack stated that the language of P6(a) was gone over by "our attorneys and it was the best they could provide."

Q. After this discussion did you submit any proposal to the Union?

A. We did.

Mr. Martin: May I have this marked for identification as Board's Exhibit 66.

(Thereupon, the document above referred to was marked Board's Exhibit No. 66 for identification.)

Q. (By Mr. Martin) Handing you what has been marked for identification as Board's Exhibit 66, entitled "Publishers proposal to Albany Typos on October 23, 1947", I ask you if that is a copy of the proposal submitted to the Union at that time?

A. It is.

Mr. Van Arkel: No objection.

[2939] Mr. Martin: We will offer Board's Exhibit 66.

Trial Examiner Leff: Board's Exhibit 66 is admitted.

(The document heretofore marked Board's Exhibit No. 66 for identification was received in evidence.)

Q. (By Mr. Martin) Did you have any discussion of that proposal at that time?

A. We did.

Q. What was that?

A. During the reading of the proposal by Mr. Stack, Mr. Stack remarked, and addressed his remarks to his committee, that "they propose an open shop." The publishers' representatives stated that they could only offer a union shop under the law in view of the fact that the Union's committee had not received the authority of its members by a vote to negotiate for a union shop.

Q. You stated "union shop", Did you mean open shop?

A. I mean—could only offer an open shop. Mr. Stack stated, "We are here to negotiate a union shop. We understand only two kinds of shop, union and non-union".

Q. Did Mr. Stack make any further remarks concerning your counter-proposal?

A. Yes. There were remarks expressing dissatisfaction with certain portions of the counter-proposal.

Q. Do you remember what they were?

[2940] A. I don't recall what they were.

Q. Did you offer to discuss the counter-proposal at further length?

A. Yes. Mr. Stack after completing his perusal of the proposals stated he wanted some time to consider the publishers' counter-proposal, and we stated we were willing to discuss the counter-proposal and Mr. Stack said he was required to submit it to the I.T.U. but there was approximately nothing in the publishers' counter-proposal.

Q. Anything else happen at that meeting?

A. Nothing, except Mr. Stack called our attention to the fact there would be a Union meeting on November 2nd; that the Union had served a notice of termination of contract; that Mr. Stack did not know what would happen; that the Union's membership would have to "carry the ball".

Q. Did you set a date for another meeting at that time?

A. Yes.

Q. When was the next date?

A. October 29, 1947.

Q. Were the same people present?

A. Yes.

Q. What happened at this meeting?

A. The meeting was opened by Mr. Stack reminding the publishers' representatives that the contract would expire on October 31st. Mr. Stack also stated that he had talked [2941] with Mr. Woodruff Randolph, President of the International Typographical Union, who told him that he, Randolph, did not like the suggestions made by the publishers' representatives on Form P6(a). Mr. Stack also stated that the local did not like them either and the local could not acccept the suggestions.

Q. Was there any conversation with reference to your counter-proposal that you had submitted at the previous meeting?

A. There was.

Q. What was that?

A. Mr. Stack was asked if he had shown this counter-proposal of the publishers to Mr. Randolph. He stated that he had not. He then said, We've offered you (a) through (i), Form P6(a). Is it my understanding that you refuse to accept it?", addressing himself to the publishers' representatives, and the publishers' representatives said they would not accept Form P6(a) in its present form.

Q. Was there any discussion concerning money at this meeting?

A. Mr. Stack pointed out that the counter-proposal did not contain any money provision. The publishers' representatives stated that traditionally during these negotiations for many years wages were not discussed until after the conditions of the contract had been settled. Mr. Stack [2942] stated that he was not rejecting the proposed contract or counter-proposal but again inquired if the publishers would accept "Conditions of Employment", and the publishers' representatives stated they would not.

Q. Was there any further conversation then with respect to what was to be done or might be done?

A. Mr. Stack asked if the publishers had any suggestions and the publishers' representatives stated that the I.T.U. should eliminate the no contract, no bargaining policy—that the I.T.U. and the local should eliminate the no contract, no bargaining policy.

Q. Did Mr. Stack make any comment on that?

A. I don't recall any specific comment on that.

Q. Was there any discussion concerning arbitration?

A. Yes. The publishers' representatives asked Mr. Stack if the Union would arbitrate, except to those matters in violation of law.

Q. Was that arbitration concerning the entire contract?

A. The entire contract. Mr. Stack stated that he would have to submit this, meaning the offer to arbitrate "to our attorneys". I am quoting "to our attorneys". Then Mr. Stack inquired who would be the arbitrator, and the publishers' representatives suggested that the procedure set forth in the joint standing committee section of the present contract be adopted as the form.

[2943] Q. Did you ask Mr. Stack if he would submit your counter-proposal to the I.T.U. attorneys?

A. We did.

Q. What did he state?

A. Mr. Stack stated he did not care to answer the question.

Q. Was there any further discussion?

A. Yes. Mr. Stack stated that the publishers were not bargaining in good faith because the publishers' counter-proposal was not complete insofar as a money offer was not made.

Q. Did you have any comment on that or state anything?

A. We argued that, as I previously mentioned, money had always been traditionally discussed after conditions were agreed upon. We again expressed the intention of the publishers to offer a wage increase; that a wage increase was intended to be offered, and I think there was some reference made that the wage increase would be consistent with the pattern established locally or some such language.

Q. Did Mr. Stack make any further comment after that?

A. Yes. There was some discussion then about the situations in Boston and Chicago.

Q. Before that, after you had this discussion did Mr. Stack make any comment with reference to whether or not you were bargaining in good faith or not, do you recall?

[2944] A. I don't recall any specific statement in that respect?

Q. Then you had some discussion on what matters?

A. There was a general discussion about the situation then existing in Boston and Chicago and some general discussion in connection or reference to incidents in connection with those situations, and the publishers' representatives then asked Mr. Stack if he had accepted or rejected the publishers' counter-proposal and he answered, "We neither accept nor reject". There was a bulletin—an I.T.U. postcard then read by one of the publishers' representatives which stated that the publishers' proposal must be measured by typographical unions on the basis of I.T.U. laws and must be approved by I.T.U. President Randolph, and we, I think, then asked if the counter-proposal had been submitted for such comparison and approval.

Q. Did Mr. Stack make any reply to that?

A. No.

Q. Was there any discussion about money at this time?

A. There was. Mr. Stack stated he would be willing to settle for an increase of more than $8.00 weekly and a continuance of operations under present conditions, and the publishers' representatives stated that unless the union agreed there would be a legal contract arrived at after negotiations signed by the parties, the publishers would not make a wage offer.

[2945] Q. Anything else happen at that meeting?

A. There was some reference by Mr. Stack, addressing himself to his committee, to the fact there would be a meeting of the Union Sunday; that Mr. Stack asked the publishers' representatives if they wished another meeting. We replied in the affirmative and a meeting was arranged for November 6, 1947.

Q. Was such a meeting held?

A. It was.

Q. The same people present?

A. They were.

Q. What happened at the November 6th meeting?

A. Some general discussion opening the meeting, and then Mr. Stack stated, "We took $10.00 from Williams Press and that isn't enough."

Q. What is the Williams Press, do you know?

A. The Willian s Press is a job plant or a commercial printing establishment here in Albany or in the vicinity of Albany, does magazine, book printing and state printing.

Q. Was there any further discussion by Mr. Stack after that?

A. Mr. Stack stated he would be authorized to notify the International headquarters of the Union there was a deadlock in our negotiations. I think he stated he had been authorized to so advise and that he expected an International [2946] representative to arrive in Albany shortly. He also mentioned that the Boston and Detroit unions were preparing to strike. Then the publishers' representatives suggested that the State Mediation service or Federal Conciliation service be called in. Mr. Stack stated in passing that he would not sit in with a mediator although later Mr. Stack stated, "Call in mediation" and repeated, however, that the committee had no power to agree. Mr. Stack suggested that the publishers contact mediation and he agreed that he would in the presence of the mediatior discuss our proposed contract and the union's proposal and attempt to arrive at an agreement.

Q. Was there any discussion with reference to the fact that the contract had expired at that time?

A. Yes, there was. Mr. Stack called our attention to that fact and stated that the matter of retroactivity on wages should be discussed. The publishers' representatives presented to Mr. Stack, a statement in connection with retroactivity on wages.

Q. Do you have a copy that you can read into the record?

A. Yes, I have.

Q. Will you read that, please?

A. It was a typewritten statement dated November 6, 1947, entitled "Retroactivity on Wages."

"In the event an agreement is reached on [2947] legal working conditions and following that an agreement arrived at on scale increases, the following retroactivity conditions will apply:

"Wages will be retroactive to the expiration date of the contract but in no event more than sixty days.

"Moreover, this offer is conditioned on a preser-

vation of the status quo without strikes, slowdowns or any other acts by the union or its members to impede production until such time as a contract not violative of the L.M.R.A. is executed.

"In the event strikes, slowdowns or any other acts impeding production occur, this offer shall be automatically withdrawn."

Q. Did the Union make any comment with reference to that?

A. Yes. Mr. Stack rejected the proposal and suggested an agreement be made that any increase of wages would be retroactive to November 1, 1947, and there was some considerable discussion about retroactivity, and the publishers' representatives stated that the Union had before them the offer which I just read. The Union maintained the position that the publishers should abide by what they termed "former practice" and make a blanket retroactivity [2948] offer to the expiration date of the contract. The publishers' representatives stated there was a marked difference between prior negotiations and present negotiations in that in prior negotiations there was an expectation by the parties that a written contract would be reached within a reasonable time, and that the publishers' representatives did not feel that any such expectations were justifiable during these negotiations. Mr. Stack stated he would "take no strings on retroactivity", and the meeting was adjourned subject to call by a mediator.

Q. When was your next meeting?

A. Next meeting was November 13, 1947.

Q. Was substantially the same people present?

A. Except that Mr. Taylor, the auditor for the Knickerbocker News, was present at the meeting and William A. Hazell of the State Mediation Bureau.

Q. Did the parties meet together with the mediator at the start of this meeting?

A. That is correct.

Q. What was the substance of the meeting?

A. The mediator asked Mr. Stack to give him the background of the situation, and Mr. Stack stated that our contract had expired on October 31, 1947; that there were approximately 160 typographical employees employed by both papers; that there had been seven prior

meetings but [2949] nothing had been accomplished. Mr. Stack stated he had given the publishers a complete proposition. Then the publishers' representatives stated that they had made a counter-proposal. The publishers' representatives gave the mediator copies of what we have referred to as P6(a) as well as a copy of the various documents presented by the Union to the publishers throughout the negotiations in which the Union proposed there be no contract and that the publishers recognized that the Union had no objection other than those specified in "Conditions of Employment". At this point Mr. Stack stated he had withdrawn the documents to which I have just referred as well as the copy of the I.T.U. collective bargaining policy set forth in the final report of the I.T.U. committee on collective bargaining.

The mediator asked the publishers' representatives if that was correct, that Mr. Stack had withdrawn those documents, and we advised the mediator that Mr. Stack so stated but we thought he was exercising some mental allusions in that respect. The publishers' representatives advised the mediator their only purpose was to obtain a contract consistent with the provisions of law.

Q. Did you have any discussion of P6(a)?

A. We did.

[2950] Q. What was that discussion?

A. As I recall, it was just a general discussion wherein the publishers' representatives pointed out, as I have heretofore, the legal objections and the practical objections to P6(a). We stated that it was our position that this union could not change P6(a) in any way and referred to the letter of October 6, 1947 to substantiate those statements. We advised Mr. Hazell that we had offered an amendment to P6(a) which was not accepted and recited the reasons why they were not accepted because the local union was unable to accept them. A discussion was then had about the present wages and hours of both newspapers.

Q. Was there any discussion at this time by anyone of the Boston settlement?

A. There was. Mr. Stack advised Mr. Hazell of a settlement made in Boston and suggested that the Boston precedent, that is, the Boston program, would create a precedent which should be followed in the Albany situation.

Q. Were you at that time familiar with the Boston settlement?

A. I think I was generally familiar with it.

Q. Do you know what that was?

A. As I recall it was a settlement by which a wage increase was paid—there was no agreement in writing—and parties were to continue bargaining. I think it was [2951] referred to then at that meeting and has been referred to as "an under the table agreement".

Q. Who referred to it as that?

A. I think it was referred to by Mr. Stack, Mr. Hazell, Mr. Siefken and myself.

Q. Did you make any comment to Mr. Hazell about your position with reference to the Boston setup?

A. Yes, we did. We stated that we felt that traditional practice should continue; that a contract should be signed, and that we were meeting for the purpose of arriving at an agreement with the union which could be reduced to writing and executed by the parties.

Q. Did the Union then bring in any matter of reference to the Williams Press again?

A. Mr. Hazell turned to Mr. Stack and then said, "Can you sign a contract?" Mr. Stack said, "We can sign a contract if we can agree upon the terms", or some similar expression. He said, "As evidence of the fact that we can sign a contract I will show you a contract the Union signed with the Williams Press".

Q. Will you tell us what you know about that Williams Press contract?

A. Mr. Stack asked Mr. Leonard to go over the I.T.U. offices at 75 State Street and get a contract with the Williams Press. Mr. Leonard left the room, and he returned [2952] with a document, handed the same to Mr. Stack, and Mr. Stack exhibited the contract with the Williams Press. The contract covered unskilled workers at the Williams Press.

Q. Was there any provision in that contract that you know of on Union security?

A. Yes, there was.

Q. What was that?

A. There was a Union shop provision, namely, a provision in the contract that a union shop will exist if and

when approved by a vote of the members of the union as required by the L.M.R.A.

Q. Was Mr. Stack asked if he was offering you the Williams Press proposal or Williams Press agreement?

A. Yes, he was.

Q. What did he say?

A. He said he was making no such offer.

Q. Do you know what kind of unskilled workers were working at the Williams Press under that agreement?

A. I don't know from the agreement itself—no.

Q. Do you know what kind of unskilled workers they have in their plant?

A. From my own knowledge I don't know.

Q. After that did the parties separate at this meeting?

A. Yes.

[2953] Q. Then the meeting was adjourned while the parties were apart, is that correct or did the parties meet together again at that meeting?

A. I don't think we did at that meeting.

Q. Did you have another meeting subsequently?

A. We did.

Q. When was that?

A. November 20th.

Q. The same people present?

A. Yes. In addition thereto Mr. Brennan.

Q. At the start of this meeting were the union's and the publishers' representatives together or not?

A. No, they were out.

Q. After some discussions with the mediator did you finally come together and meet jointly?

A. We did—just a second, there was a question whether we did come together again. There was another meeting in the interim, however, of a small group.

Q. Do you know who was in that small group that met?

A. The smaller meeting?

Q. That is right.

A. There was Mr. MacDonald, Archibald, Mr. Stack and Mr. Sano.

Q. The attorneys did not attend that meeting?

A. That is correct. We did, but not originally, not at [2954] the start.

Q. Not at the start. About now long did the meeting last before you came into that meeting, if you know.

A. My recollection is that a period of time of about 20 minutes to a half hour elapsed from the time I left the room to go down to the lobby in the hotel until I was called back to join the men previously mentioned at the interim meeting.

Q. What happened after you got into the meeting?

A. Mr. Stack stated that if agreement could be reached on the main issues, for example, wages, holidays and vacations, the Union would be willing to pass a resolution stating that they would work under those conditions for at least a year. The publishers' representatives asked Mr. Stack if he would furnish the publishers with a copy of that resolution or to notify the publishers in writing of the passage of such a resolution.

Q. Did you give any reason why you wanted it in writing?

A. Yes, there was. I said I would advise my clients to settle on that basis because in my opinion that would be a contract.

Q. What did the Union say with respect to that?

A. Mr. Stack refused to comply with that request. He did say, however, that the Union would pass such a resolution and he invited myself, Mr. Brennan to attend the Union meeting and observe and witness the procedure adopted [2955] thereat.

Q. Did Mr. Stack make any other proposal along with that at that time?

A. Yes. He further offered to settle wages and continue operating under the arrangements set up in the present contract.

Q. Did you have any comment on that?

A. Yes. We pointed out that the present contract called for a closed shop provision and that we were greatly concerned as to what would happen and what situation the publishers would find themselves in if a non-union man applied for work in either of the composing rooms.

Q. Did Mr. Stack make any comment on that?

A. He said he didn't think that problem would arise, but that he did realize if the situation arose the publishers would have their problem and that this union would cooperate with the publishers insofar as possible in handling the problem presented.

Q. Did he explain any further what he meant by co-

A. I don't recall any further explanation.
Q. Did that conclude that meeting?
A. That is correct.
Q. Did you make arrangements for another meeting at this time?
[2956] A. We did.
Q. When was that held?
A. November 25, 1947.
Q. The same people present?
A. Correct.
Q. Did you meet together with the Union at the start of that meeting?
A. No, we originally met with Mr. Hazell—I am speaking about "we", I mean the publishers' representatives.
Q. Did you thereafter come together with the Union's representatives?
A. We did.
Q. What happened then?
A. Mr. Hazell told the Union's representatives that the publishers desired a written contract, and there was some statement made by the publishers' representatives that the whole matter should be held to await the outcome of the Nassau Daily Review Star case and other National Labor Relations Board proceedings. Mr. Stack asked the publishers what the increased wages would be. The publishers' representatives answered they could not discuss wages until they received assurance that that contract would be signed by the Union, and Mr. Stack at that point turned to his committee and said, "Boys, that's laying it on the line". Mr. Stack stated that the Union's members would continue to [2957] work if paid satisfactory wages and that the Union was ready to bargain on money. Mr. Hazell—
Q. Was there further discussion on that?
A. Mr. Hazell proposed that he send a letter to the Union and the Publishers, stating that such letter would not be a contract.
Mr. Martin: May I have this marked for identification as Board's Exhibit 67.
(Thereupon, the document above referred to was marked Board's Exhibit 67 for identification.)
Q. (By Mr. Martin) Handing you what has been marked for identification as Board's Exhibit 67, a paper

entitled, "New York State Board of Mediation", and consisting of a letter addressed to the Albany Times Union and the Press Company, Inc., and Albany Typographical Union No. 4, with a blank space to be signed and at the bottom signed by William A. Hazell, I will ask you if that is the document that Mr. Hazell submitted to you and the Union at that meeting?

A. It is.

Mr. Van Arkel: No objection.

Trial Examiner: It will be admitted as Board's Exhibit 67.

(The document heretofore marked for identification as Board's Exhibit 67 was received in evidence.)

[2958] Q. Did you have a discussion of Board's Exhibit 67 at that time?

A. We did.

Q. What was said?

A. As I stated before, Mr. Hazell expressly stated that, however, such letter would not be a contract, and the publishers' representatives declined to agree to that program for the specific reason mentioned, that it would not be a contract.

Q. Was there any further discussion at that meeting?

A. There was no further discussion in connection with the contract proposal except that the publishers' representatives stated they were merely asking for a continuation of past policy in asking for a written contract.

[2960] • • • Q. (By Mr. Martin) Did you have a further meeting with the Union?

A. Yes.

Q. When was that?

A. December 5, 1947.

Q. Were the same people present?

[2961] A. Except Mr. McDonald.

Q. What happened at that meeting?

A. Pardon me—the Union's representatives at this time were Mr. Stack and Mr. Sano.

Trial Examiner Leff: What meeting are you talking about?

The Witness: December 5, 1947. I was in error when I said the same appearances. The same appearances for the publishers except Mr. McDonald.

Q. (By Mr. Martin) Was the mediator present?

A. Mediator William Hazell was present.

Q. Did you meet in the same room with the Union at the start of this meeting, do you know?

A. It seems to me we did—yes, we did.

Q. What happened?

A. At the opening of the meeting it was stated or agreed that the subject matter of the meeting was a discussion of retroactivity on wages. Mr. Hazell read the retroactivity offer made by the publishers on November 6th.

Q. Was that the one you previously read?

A. It is my recollection—yes. That offer, as you know, had been rejected by Mr. Stack, he having proposed unconditional retroactivity from the first date of the contract, October 31, 1947. There was some general discussion about the term retroactivity. Mr. Stack said, "When an agreement [2962] is reached we want wages retroactive and we are going to reach an agreement or we are not going to work". Mr. Stack stated he would not guarantee the status quo and that the Union was not going to put itself in a noose on an agreement on retroactivity. The publishers' representatives stated they did not wish to put themselves in a noose either. Mr. Stack suggested that the publishers post an increase in wages without bargaining and thereafter the parties could discuss conditions. That was rejected by the publishers.

Q. Did he have any reason—or did you have any reason for rejecting it or did you give any reason?

A. I don't recall whether we did at that time, Mr. Martin. I have no distinct recollection on that point.

Q. Did you finally make another proposal on retroactivity?

A. We did.

Q. What was that?

A. A statement dated December 5, 1947, as follows:

> "Any wage increase agreed upon prior to February 1, 1948 will be retroactive to November 1, 1947. This agreement may be cancelled by either party on one week's written notice to the other."

Q. Did you present that to the Union at that time?

A. That is right.

Q. And did the meeting then adjourn?

[2963] A. That is correct.

Q. Did the Union later accept that proposal on retroactivity?

A. It did.

Q. Did they so notify you?

A. They did.

Q. It was thereafter signed?

A. It was.

Q. Signed by both parties?

A. Signed by the Union, the Press Company and the Hearst Corporation of the Albany Times Union department.

Q. Did you have any further meetings after this?

A. We did.

Q. When were they?

A. The next meeting was February 13, 1948.

Q. Where was that held.

A. Ten Eyck Hotel.

Q. Were the same people substantially present?

A. They were.

Q. Was the mediator present?

A. He was.

Trial Examiner Leff: What is that date?

The Witness: February 13th.

Q. (By Mr. Martin) At the start of this meeting were you together or separately?

[2964] A. Separate.

Q. Did you then meet together?

A. We did.

Q. What happened after the Union and the publishers met together?

A. Mr. Stack stated that negotiations had been going on a long time without reason; something must be wrong; couldn't be expected to continue this way forever. He said he wanted to discuss with the publishers a contract in written form or otherwise. I asked Mr. Stack or suggested an exchange of letters.

Q. Will you give us any further details on your suggestion as to the exchange of letters?

A. I suggested that the publishers would write a letter to the Union setting forth the conditions of the understanding or agreement, including wages, and the Union could acknowledge the letter and we would be satisfied that would be a contract.

Q. Did Mr. Stack or anyone make any comment on that offer?

A. There was comment made and the only recollection I carry in mind it was declined.

Q. You don't recall why or do you?

A. Well, I have a recollection that a statement was made that would be a contract in violation of I. T. U. policy. I am not sure about that to make that statement under oath.

[2965] Q. Was there any discussion by the Union with reference to what kind of an agreement, if any, they wanted?

A. Yes. Mr. Stack stated the Union wanted an agreement with a 60 day cancellation clause; said he would not agree to any agreement except an agreement providing for such a 60 day cancellation clause.

Q. Did he tell you what he wanted it for?

A. He wanted it for protection of the Taft-Hartley law or from the Taft-Hartley law. He said that his men would not work with non-union men.

Q. Did he elaborate any further on what protection he wanted from the Taft-Hartley law?

A. No, I don't recall any further elaboration of that.

Q. Was there any further discussion?

A. Yes. Mr. Stack stated that if we could reach an agreement or settlement the men would work under it for one year. He referred to settlements made by Hearst papers in other Hearst cities and stated that apparently this settlement was being held up by the Gannett organization.

Q. Did you make reply to that—any of the publishers?

A. The reply was in the form of a question as to why an agreement could not be had as in past years. Mr. Stack's reply was, "No, we couldn't do that". Mr. Stack continued to discuss—or rather Mr. Stack continued his statement that the Union would not make any kind of an agreement—[2966] oral, written or otherwise—for a full year, and he again called attention to the Hearst settlements in other cities, and Mr. Stack asked me if my position was for a year's contract.

Q. What did you say?

A. I said it was.

Q. Was there any other talk or discussion with reference to the other Gannett papers?

A. Yes. I asked Mr. Stack if the Albany settlement was contingent upon a settlement of all the other Gannett papers, and Mr. Stack's reply was, "no".

Q. Did you then separate?

A. We did.

Q. What happened after that? Did you meet again with the Union?

A. We did.

Q. What happened?

A. At that time when the union's committee rejoined the publishers or vice versa, Mr. Hazell, the mediator, informed the Union that the publishers must have some form of assurance in writing for one year. I don't mean to imply that was a ruling. He was relaying to the Union the position of the publishers—they must have some assurance in writing for one year.

Q. What did the Union reply?

[2967] A. Other than repeating the position previously mentioned, they would not make any kind of agreement—oral, written or otherwise—for a full year.

Q. Did you at that time make arrangements for another meeting?

A. Yes.

Q. When was that held?

A. Thursday, February 26th.

Q. Were the same people substantially present?

A. Substantially—yes.

Q. Was the mediator present?

A. Yes.

Q. Did you meet together?

A. Separate rooms originally.

Q. Then did you later come together with the Union's committee on that date?

A. Yes.

Q. What happened then?

A. The subject of the discussion at that point was again the question of the position of the publishers would find themselves in if a non-union man applied for employment.

Q. What was that discussion, if you recall?

A. It was pointed out to the Union's representatives by the publishers' representatives that if a non-union man

applied for employment and there was employment available [2968] that the publisher was bound under the law to accept that man for employment. That if employment was refused that the publisher and the company was liable in damages to the man to whom employment was refused.

Q. Was that reference to the hiring of what type of person?

A. Non-union men.

Q. Then what happened?

A. It was pointed out by Mr. Brennan, one of the publishers' representatives, that management was undertaking the risk of a monetary loss in that connection. Mr. Hazell then wanted to know what the attitude of the company would be if the Union agreed to post an indemnity bond in a satisfactory amount to indemnify the publishers against such monetary loss. The managements' representatives stated they would give very serious consideration to that proposal.

Q. Did the Union say anything?

A. Not at this time although they did later. Later they rejected any idea of an indemnity bond.

Q. Was there any discussion with reference to anything else?

A. Yes. Mr. Hazell mentioned an agreement which I think he referred to as an oral agreement rather than writing, which was recently entered into between the Newark, New Jersey, Mailers' Union of the I. T. U. and the Newark Publishers, and the publishers' representatives advised Mr. Hazell they [2969] would be willing to give that program as adopted there favorable consideration.

Q. Did you go into at that meeting any further details of what that settlement was at Newark?

A. Yes, that was discussed somewhat.

Q. Can you tell us what that was?

A. As I recall it, it was an agreement made orally between the representatives of the Mailers' Union and the Newark Publishers and that oral agreement was evidenced by a document signed by the President of the Typographical Union, the President of either the stereotypers or press men, I don't recall, and I believe the Secretary of the New Jersey State Publishers, which document stated that those three men were present at and witnessed the conversation between the President of the Mailers' Union and the Pub-

lishers wherein the terms and conditions therein mentioned were agreed upon.

Q. Did Mr. Stack make any statement on that proposal?

A. Yes. Mr. Stack stated that the Newark Mailers' arrangement had not been approved by Mr. Randolph.

Q. Did he say anything further about his position with respect to that?

A. I don't recall any specific reasons except he rejected it.

Q. I see. I believe you previously testified to the [2970] fact you had reached a retroactivity agreement. Was that due to expire on March 1st?

A. That is right.

Q. At this meeting was any arrangement made for an extension?

A. It was, subject to confirmation by Mr. Archibald who was not present at that meeting?

Q. Did you later extend that?

A. We did.

Q. To what date was it extended?

A. To March 31st.

Q. Have there been any subsequent extensions of that?

A. There have.

Q. When was the last one?

A. To April 31st.

Q. That extension is presently in effect?

A. That is correct.

Q. Have you had any formal meetings with the Union's representatives since that meeting of February 26th?

A. We have not.

Q. Have you had any discussion with any representatives of the Union yourself?

A. Well, I have had some telephone conversations in connection with the mechanical operation of renewing these retroactivity agreements with Mr. Stack.

[2971] Trial Examiner Leff: What wages were being paid the employees in the composing rooms—the old wage?

The Witness: That is correct.

Q. (By Mr. Martin) Your present retroactivity agreement, what does that provide, just briefly?

A. Well, provides that any wages agreed upon—I think I'd better get the agreement. I have it. Any wage increase agreed upon prior to April 30, 1948 will be retroactive to

November 1, 1947. This agreement may be cancelled by either party on one week's written notice to the other. Signed, Times Union by Mr. Archibald, Knickerbocker News by Mr. MacDonald, Albany Typographical Union Number 4 by Mr. Stack.

Q. Some time earlier, Mr. Casey, in your testimony with reference to the meeting of October 15th you referred to a telegram to Mr. Stack signed by Harry F. Reifin, Secretary to the President. Do you know who he is?

A. No, I do not. I assume the secretary to President Randolph.

Mr. Martin: Would you stipulate that Reifin is secretary to President Randolph?

Mr. Van Arkel: Yes.

* * *

Cross Examination.

[2975] * * * Q. Now, you testified, Mr. Casey, that at the meeting of September 26th Mr. Stack stated that he was not following certain portions of the International Typographical Union's policy. Did he specify which portions of that policy he was not following?

A. He did.

Q. And what was that?

A. The representatives of management referred to that portion of the final report of the I. T. U. reading, "Upon expiration of the existing contracts our members may accept employment only from employers who are willing to employ them under 'Conditions of Employment'". Mr. Stack was not following that portion of I. T. U. policy.

Q. Were there other portions mentioned or referred to in that same conversation?

A. No, except the statement which Mr. Stack made at that same meeting, as I recall it, "was not bound by anything".

Q. Now, at no time did the Union present to you any proposal filled out on "Conditions of Employment" forms, did they?

[2976] A. No, sir. You are speaking of a formal negotiating session?

Q. Yes.

A. No, sir.

Q. Throughout these negotiations the Union did not present "Conditions of Employment" on some filled out form for discussion?

A. My recollection is, and I am speaking of the formal negotiation sessions, that no "Conditions of Employment" were at any time presented or exhibited.

Q. Now, in discussing the meeting of October 23rd, you said that you objected to Paragraph (d) of the form P6(a) which was presented, on the ground that that provided for a closed shop. Did the Union make any comment in that connection?

A. Of course, Mr. Van Arkel, there was considerable comment on both sides in connection with the question of closed shops. It is very difficult for me now to segregate those conversations to any particular time or place unless it is set forth in the memorandum from which I am reading. In reading the memorandum I see no specific reference thereto.

Q. Did the Union state in any formal words that the purpose of Section (d) in the agreement was to protect the work which was traditionally done by journeymen and apprentice printers?

A. May I see Section (d) a moment. Now, may I have the [2977] question, please?

(The reporter read the pending question.)

A. I have no positive recollection of any such statement but I would not deny such a statement was not made.

Q. (By Mr. Van Arkel) Do you recall whether or not the Union took the position that the effect of paragraph (d) would not be to create a closed shop agreement?

A. I recall that the Typographical Union took the position that P6(a) did not preclude a closed shop. Whether or not—

Q. Did not preclude—did not create?

A. Did not create a closed shop. Whether or not any particular subdivision or section of P6(a) was cited as authority for that statement, I do not recall.

Q. Now, with respect to the preamble on this form P6(a) you stated your objection to that was it could be terminated on 60 days notice. Was it your view that a 60 day cancellation notice was illegal under the Taft-Hartley Act?

A. On the contrary.

Q. You had not thought of the legality?
A. Definitely not.
Q. Your objection was on a practical ground?
A. Practical ground.
Q. Because of the lack of stability?

* * *

[2979] * * * Q. Now, in discussing paragraph (e), Mr. Casey, was there any talk about the traditional reluctance of the members of the Union to work with non-union men?

A. Mr. Stack stated that his members would not work with non-union members.

Q. Did he in this connection point out that for many years this industry had operated under closed shop agreements?

A. He did.

Q. And that the members of the Union were unaccustomed to working with non-union men?

A. That answer I assume would be included in the statement I made that Mr. Stack stated his men would not work with non-union men.

[2980] Q. I am trying to find the reason—what reason he gave for not doing, if he gave any?

A. I don't recall his giving any reason particularly, except that I think he mentioned that for 100 years or some such period of time the members of that union had not worked with non-union men and would not in the future work with non-union men. That is as I recall it.

Q. Was there any talk in this connection of that provision of the Taft-Hartley law which states that nothing in the Act should require an individual to work against his will?

A. There was.

Q. Did the Union point out that reservation in the law?

A. Mr. Stack pointed out that there was a provision in the law, and I think he went further, "there is no law compelling a man to work".

Q. Did the Union explain that the purpose of that clause (e) was to protect the Union from liability for damage suits in the event that members of the Union refused to work with non-union men?

A. I don't recall that specifically, Mr. Van Arkel.

Q. As to Section (f), I take it you felt that that section

was not illegal providing that amendment you suggested was added, was that it?

A. Yes. I mean, I think the language would have to be changed to comply with Taft-Hartley, and we suggested an [2981] amendment to meet our objections.

Q. Now, with respect to Section (g), did the Union in the course of negotiations point out that under the Taft-Hartley Act an employer was free to refuse to take struck work or substandard work into his plant if he so desired?

A. I don't recall, Mr. Van Arkel.

Q. Do you recall what, if any, discussion there was about that particular clause?

A. Yes. There was considerable discussion as to what was meant by the term "substandard conditions".

Q. And, I believe you stated that Mr. Stack pointed out that might mean—

A. —wages, hours.

Q. People receiving wages below the Union scale, et cetera?

A. Yes.

Q. Was the term "struck work" or "struck goods" specifically used in that connection?

A. Would you mind repeating that?

(The reporter read back the pending question.)

A. I don't recall that it was.

Q. (By Mr. Van Arkel) Now, is it your understanding that there is anything in the Taft-Hartley Act which requires an employer to purchase goods produced under substandard conditions?

A. Nothing in the Taft-Hartley Act that requires him so to [2982] do—no.

Q. You understand that under the Taft-Hartley Act an employer retains freedom to purchase goods where he wishes and to sell his product where he wishes?

A. Yes.

Q. Now, I believe you stated in connection with paragraph (h), Mr. Casey, that your chief difficulty with that was the $25 limitation of liability, is that correct?

A. Yes, that is as I recall it.

Q. Is there anything in the Taft-Hartley Act which in your judgment prevents agreement between the employer and the union limiting liability as set forth there?

A. There is not.

Q. So that your objection to that was again on practical not on legal grounds, is that right?

A. Correct.

• • •

[2997] • • • Q. Now, I am not quite sure, Mr. Casey, whether or not you testified to this but I note that the minutes of October 6th state that during the meeting of October 15, 1947 Mr. Stack denied that Form P6(a) provided for a closed shop and insisted that this form comply with the law in every way. Did Mr. Stack make that statement?

A. He did.

• • • •

[2998] • • • *Redirect Examination.*

• • •

[2999] • • • Q. Just one other question. Referring to this Section (g) of P6(a), did you express any opinion to the union representatives at your meeting as to whether or not you felt the wording as it was in there was legal or not?

A. Oh, yes, we did. We raised the objection this was violative of the Taft-Hartley Act in that it violated the secondary boycott provisions.

Trial Examiner Leff: How did it violate the second boycott provision, did you explain?

The Witness: My recollection is that we didn't give any exact explanation.

Trial Examiner Leff: How would it violate the secondary boycott provision?

The Witness: Well, assuming some work came to the newspaper plant, a mat or some similar product, that had been produced by a non-union shop. Under this definition I think the members of this union could refuse to work on [3000] and therefore create a secondary boycott.

Q. (By Mr. Martin) Did you feel that that language in any way encouraged it?

A. Yes. As a matter of fact if you are referring to the fact that this agreement refers only to the fact that this part of the first part agrees not to require its employees to perform.

Q. That is what I am calling your attention to.

A. It was aiding and abetting, if you will, and assisting the union in violating the secondary boycott provision of the Taft-Hartley. That is how we felt.

Recross Examination.

Q. (By Mr. Van Arkel) Mr. Casey, are you familiar with the language of 8(d)4 in this connection?

A. I was at one time.

Q. Did you examine the language at that time?

A. I did.

Q. Did you note that what is forbidden by Section 8(d)4 is a strike or a concerted refusal in the course of their employment to use manufactured products transported or other goods—

A. I will accept your reading of it and apparently I did so read it.

Q. Well, if you entered into an agreement like this that would not entail any strike by the union, would it?

[3001] A. Well, it at least encourages. I am giving you purely my opinion, Mr. Van Arkel. It at least encourages, possibly aids and abets the union in circumventing the laws to which you have just referred.

Q. Well, I can see for the purpose of this question that this effect would not require the union members to work on struck goods. Was it not your understanding that the employer was free to purchase or refuse to purchase such goods as he in his discretion might deem best?

A. In the academic sense, Mr. Van Arkel, an employer is free to refuse to purchase but in the operation of a newspaper an employer is subject to specific sources from which he must take the product. For example, I am speaking now of a wire service. If we have a contract with the Associated Press, Associated Press should be on strike, why we have the academic right to refuse to deal with A. P. That is the source of our news and by virtue of the operation of the business we must use A. P. news.

Q. Well, you mean "must" in a practical sense?

A. I am speaking entirely in the practical sense.

Q. Legally there is nothing to inhibit you from refusing to purchase news from the Associated Press if their men are on strike?

A. Except as the economic neccessities of the situation dictate.

[3002] Q. I take it then your problem in connection with this clause is a practical one, not a legal one?

A. There is always a legal problem I feel, Mr. Van Arkel.

Q. Could you spell that out at all?

A. Yes. The only way I can do is that way I attempted to do before and say it is—I hesitate to use the word "conspire" as I don't mean it—it is aiding or abetting or inviting or inducing the labor organizations.

• • •

Mr. Martin: First, I would like to offer the stipulation marked Board's Exhibit 70 a, b, and c—three pages, which covers the commerce data from the Knickerbocker News, and as Board's Exhibit 71 a and b the commerce data from the Times Union.

(Thereupon, the documents above referred to were marked Board's Exhibits 70 a, b, and c and 71 a and b for identification.)

Mr. Martin: I offer to stipulate if duly, competent and qualified personnel were called they would testify as to [3003] the matters contained therein to be true.

Trial Examiner Leff: Do you so stipulate?

Mr. Van Arkel: Yes.

Trial Examiner Leff: The stipulation is approved and Exhibits 70 and 71 are received.

(The documents heretofore marked Board's Exhibits 70 a, b, and c and 71 a and b for identification were received in evidence.)

Mr. Martin: I offer to stipulate that all of the employees covered by the contract between the Albany Times Union Department of the Hearst Corporation and the Press Company, Inc. with the Albany Typographical Union No. 4 were on August 22nd and still are members of the Albany Typographical Union No. 4.

Mr. Van Arkel: How about the foremen?

Mr. Martin: Including the foremen.

Mr. Van Arkel: I so stipulate.

Mr. Sinsheimer: That is, we include foremen as being members of the Union whether in or out of the Union.

Trial Examiner Leff: You are just stipulating membership.

• • •

[3004] * * * JOHN J. STACK, a witness called by and on behalf of the Union, being first duly sworn, was examined and testified as follows:

Direct Examination.

Q. (By Mr. Van Arkel) What is your full name?
A. John J. Stack.
Q. What is your present address?
A. 284 Colonies Street.
Q. What is your present position with the Albany Typographical Union No. 4?
A. President.
Q. For how long a time have you held that position?
A. 1932.
Q. Now, there has been testimony here concerning certain meetings which were held during 1947 with the representatives of the publishers. At the meeting on September 17, 1947, did Mr. Casey propose that the existing contract be continued for one year with such modifications as were necessary to comply with the Taft-Hartley Act?
A. He did.
Q. Was any request made at that time that he state what modifications in his judgment were required?
A. Yes, there was. I at that time asked him to place in writing the changes desired.
Q. What was Mr. Casey's reply to that?
A. Why, it was evasive. We never received such a document.

* * *

[3008] Q. Now, at the meeting of November 13th, did you suggest that wages be discussed?
A. Probably at that date I did as I did at nearly every meeting we had.
Q. Would that help refresh your recollection?
A. That is correct.
Q. What, if any, reply did the representatives of the publishers make?
A. Well, their usual was that that they would not submit a wage provision or discuss wages until all other provisions of the contract had been agreed to.
Q. Did you in the course of that meeting make a proposal on economic conditions?

A. I did, to try to break the deadlock and get started I suggested the wages of $90 on days, $99 on nights and $103 for split and lobster with a week's vacation and extra holidays with pay, full equity with vacation and any increase agreed to be retroactive to November 1, 1947.

Q. What, if any, reply did the publishers make to that suggestion?

A. Why, their same reply that they would not discuss those things until we had reached a complete agreement on every other provision in the contract.

Q. For any particular term?

A. I didn't mention any term in here—no.

[3009] Q. I mean, did the publisher state that any such agreement would have to be for some term?

A. Not at that time—I don't believe.

Q. Did they at any other time?

A. Yes. On several occasions they insisted that it would have to be a contract for one year.

* * *

[3010] * * * Q. Now, in previous years, Mr. Stack, in your negotiations when the publishers presented a proposal had there been a complete proposal?

A. Back to my knowledge these 30 years every proposal was complete.

Q. By complete, what do you mean?

A. Including wages, hours and all the usual working conditions,

Q. Was 1947 the first year in which that practice had not been followed?

A. Over a period of 30 years—yes.

* * *

[3011] * * * Q. Now, Mr. Stack, there has been some testimony concerning the discussion at these meetings with reference to closed shop or hiring of non-union men and the like. What, if anything, do you recall being said in the course of these negotiations on that subject?

A. We never worry too much about it. There was a lot of conversation because both publishers, when I say publishers I mean their representatives, volunteered the information that they had no intention of employing non-union men.

Q. Yes. Was that substantially all the discussion on that matter?

[3012] A. Well, they did say they had no intention of changing any existing conditions because of the Taft-Hartley law; that they were willing to go along and were satisfied under present working conditions.

Q. Was there some discussion about the tradition of the craft, that is, that the union men had traditionally not worked with non-union men?

A. Yes, I believe they did.

Q. What do you recall about the discussion on that subject?

A. I recall advising the publishers' representatives that if non-union men came in the plant that this union would have no control over its men. As individuals they would have the right to stop work.

Q. Was there any discussion during these meetings as to what, if any, action the union might take if such an event occurred?

A. No, because we knew that the union could not take any action under such circumstances.

Q. Was that substantially all the discussion you had on that matter?

A. About all I recall right now.

• • •

[3015] • • • *Cross Examination.*

Q. (By Mr. Martin) Mr. Stack, you have participated in negotiations for some years back, have you?

A. That is right.

Q. In previous years when you sent the employers a notice of termination had it been your custom to submit a letter similar to the one you did this year?

A. We never previous to this year have sent a notice of termination.

Q. Did you explain at any time during the course of the negotiations, in response to any questions from the employers, as to what you meant by "Conditions of Employment"?

A. Yes. We explained that they would be unilateral action. That was explained to the employer.

Q. That was, you understood "Conditions of Employment" were to be when you sent this letter which is in evidence, [3016] is that correct?

A. No, I did not.

Q. You didn't?

A. No. I had in mind the Taft-Hartley law.

Q. What did you think you were going to discuss when you sent this letter of August 28th?

Trial Examiner Leff: Will you identify it?

Q. (By Mr. Martin) Board's Exhibit 59?

A. At that time we didn't have a proposal to discuss. A proposal had not been prepared and okayed by the International Union.

Q. Did you talk about conditions of employment in this letter?

A. That is right.

Q. In previous years had it been customary—ordinary, when you first met to submit a union proposal at the start of the negotiations?

A. No.

Q. It hadn't?

A. It was our policy under previous contracts to submit a proposal at the time of notifying the publisher that we desired to reopen the contract. At this time we would submit a complete proposal. An employer was given 35 days to submit a counter-proposal.

Q. You didn't do that this time?

[3017] A. We terminated the contract this year.

Q. Did you at any time offer to enter into a contract for a year with the employers either in writing or orally?

A. I offered to consider such a proposition—yes.

Q. When was that?

A. I believe several times and particularly in the last meeting which we had. There was a proposition on the table at that time. I don't know whether it was presented by Mr. Hazell or whom but that was for a one year contract and I said we would take it and consider it.

Q. Did you ever agree that you would sign such a contract for a year?

A. If we could reach agreement, I did. If we could reach an agreement on a contract for one year we would be happy to sign it because we had had many fights to secure one year contracts over a period of a century.

Q. Did you ever offer to enter into such a contract in which there would not be a provision with a 60 day cancellation clause?

A. I don't recall that that clause was discussed. Of course, we never offer the employer a 60 day contract. We offered them contracts without any termination date but permitting 60 day cancellation.

Q. Did you tell the employer why you wanted that 60 day clause in there?

[3018] A. We did discuss it—yes, I did.

Q. What did you say was your reason for that?

A. Well, because we might find where an employer would attempt to break down our established conditions, taking advantage of loop-holes, perhaps in the Taft-Hartley law, where he might bring a flock of non-union men in and replace our men who had been employed in the plant for many years.

Q. I thought you testified in response to a question from Mr. Van Arkel that the employers had stated they had no intention of changing conditions?

A. That is right. I said we didn't worry about it, but it was discussed.

Q. Why did you want a 60 day cancellation clause if you felt the employer had no intention of—

A. Well, you may not understand but we don't trust the employers that way. We want it in writing.

Q. Did you offer to sign anything in writing?

A. A complete contract if agreed to—yes, that is right.

Q. Did you ever make an offer yourself in saying you presented a certain proposal in writing that you would sign?

A. Well, we did present a complete proposal in writing. We would be happy to sign it if the employer would agree to the proposal.

Q. What proposal was that?

A. P6(a).

[3019] Q. With a 60 day cancellation clause?

A. That is right.

Q. Did you ever offer anything specific aside from P6(a)?

A. Nothing complete—no.

* * *

[3023] * * * Mr. Sinsheimer: We have been discussing, off the record, our future presentation of evidence and testimony in this case. We have had a meeting prior to today with all counsel present to discuss the matter, and

also just prior to this hearing, as to what matters we can agree on and what further evidence will be taken.

We are presently in agreement that at the resumption of the hearing, we will be able to stipulate a number of matters. Included in those will be a stipulation that a number of documents now in evidence, and in addition certain other documents, are authentic documents issued by the International Typographical Union and mailed to all of the local unions of the International Typographical Union. Those will be set forth in detail after counsel for the union has had an opportunity to examine them.

Mr. Van Arkel: If I may interject at that point, I would like to make it clear that by entering into a stipulation of that kind we are not stipulating that any documents sent out by the International were received by any particular local union or, if received, that they were acted on by that local union. That is a matter for the Trial Examiner to draw any inferences about, that is, the extent to which they were [3024] received and the extent to which they were actually used.

Mr. Sinsheimer: I think we can spell out exactly the stipulation when we resume, so that it is clear that Mr. Van Arkel's statement is incorporated, and it is equally clear, as I understand it, that these papers and documents were issued by the International Typographical Union and were mailed to various locals.

Trial Examiner Leff: Generally circulated to the various locals?

Mr. Van Arkel: Correct.

Mr. Sinsheimer: Also, as I understand it, we will stipulate that certain letters were exchanged between employers in the printing industry and the San Francisco local of the Typographical Union, and that a telegram was sent to Claude Baker, president of the San Francisco local, the letters being dated in December 1947 and the telegram in January 1948.

Mr. Van Arkel: If I can interrupt again at that point, I have, of course, objected to the reception in evidence of many of the matters that Mr. Sinsheimer is now talking about. Needless to say, in stipulating I don't want to waive the objection that I have previously voiced on the record to the relevancy and competency of those documents. The stipulation extends only to the fact that they

are authentic and they did pass, without waiving the objections to them.

Trial Examiner Leff: That can be understood.

[3025] Mr. Sinsheimer: I further understand that we will be able to stipulate to incorporate into this record the testimony taken in the injunction case which was Civil Case No. 1587 before the United States District Court for the Southern District of Indiana, Indianapolis Division. Now, that will include all the testimony taken with respect to negotiations or meeting relating to New Bedford, Massachusetts, including an affidavit of Mr. Lewin which was attached to the injunction petition, and including the exhibits referred to in that testimony.

I understand also that if they are not already covered, we will be able to agree to include letters of August 21 and October 3.

Now, with respect to the incorporation of the Bedford testimony, I understand that we will agree that the Trial Examiner, in the event there are any conflicts, may make such credibility determinations as he deems necessary and proper without being obligated to make any credibility determination without the production of the witnesses unless he believes that he can do so.

Trial Examiner Leff: Unless he believes he has sufficient basis to resolve credibility on the basis of the transcript.

Mr. Sinsheimer: I think that is our understanding of it, with the additional statement made by the Trial Examiner.

Mr. Van Arkel: And as I understand, if the Trial Examiner [3026] deems some of those conflicts genuinely material, then all parties stand ready to produce the witnesses for examination.

Trial Examiner Leff: That is correct.

Mr. Sinsheimer: That is correct.

Trial Examiner Leff: The Trial Examiner will reserve the right to reopen the record for that purpose at any time, or prior to the time the intermediate report is issued.

Mr. Sinsheimer: I think that when we resume we can state it because we are going to put in as exhibits the actual pages of the transcript, and the actual exhibits, to be incorporated in the record. This statement I am mak-

ing is a preliminary one, I understand, for the purpose of having in the record the present understanding of the parties.

Now, the same statement with respect to incorporation from the injunction record may be made regarding the testimony concerning relations between the local Typographical Union and the publisher of the newspapers in Columbus, Georgia, that is, to include all of the testimony taken at the injunction hearing, together with all of the exhibits relating thereto. In addition, the General Counsel intends to offer a supplemental affidavit from attorney Edward Swenson.

In that connection, counsel for the Respondent will receive a copy of that affidavit shortly, and he reserves the right to object to it or to file counter-affidavits, or such further position as he considers appropriate, so that, in [3027] connection with Columbus, Georgia, we will have a more definite statement when we resume.

Is that correct, Mr. Van Arkle?

Mr. Van Arkel: Yes.

Mr. Sinsheimer: Now, in addition to the foregoing—

Mr. Van Arkle: I suppose that with respect to Columbus, Georgia we have the same understanding with respect to resolution of questions of credibility.

Mr. Sinsheimer: Yes, I think that should be clear, that the same understanding as to resolution of questions of credibility as stated with regard to New Bedford equally applies to Columbus, Georgia.

Now, the parties are also in agreement that there will be incorporated in this record the transcripts of the testimony of President Woodruff Randolph of the International Typographical Union taken in Case 5-CU-1 at Baltimore, Maryland, on October 21, 22 and 23, 1947, and the testimony of the same President Woodruff Randolph taken in the aforesaid injunction case at Indianapolis, Indiana on March 11 and 12, 1948, together with all pertinent exhibits relating thereto. In connection with these exhibits, counsel may agree to omit some that we agree are necessarily relevant or pertinent.

That testimony is to be received and incorporated in this record as if taken in this record on or about the dates set forth.

[3028] Mr. Van Arkel: You mean by that the dates the testimony was given?

Mr. Sinsheimer: That is correct, on or about the date the testimony was given, with the understanding that the fact the complaints in the present cases, 9-CB-5 and 13-CB-6, were issued subsequent to the testimony at Baltimore will not be the basis of any objection to incorporating such testimony herein.

Now, in addition to that, I think it is quite clear that none of us are stipulating the relevancy of testimony that is irrelevant, since I do not believe that relevancy can be stipulated in any event.

Mr. Van Arkel: I assume that where the testimony was received subject to objection, those objections also stand here.

Mr. Sinsheimer: I believe that is also understood.

* * * *

[3030] * * * Trial Examiner Leff: I am going to read that testimony and if I think it is irrelevant or immaterial, I simply won't consider it.

Mr. Van Arkel: But if, on the contrary, evidence was excluded which you think should have been received if you [3029] would let us know that, then since we will have Randolph here we can ask him questions along the lines of the matter which was excluded.

Mr. Sinsheimer: I think that counsel's position with respect to that matter is one that we are in accord with there. If you will let us know of any matter that was excluded that involved the General Counsel, we would endeavor to develop it if you considered that it should be.

Trial Examiner Leff: Yes. As to a matter that was included, even over objection, I reserve the right to consider it myself to be relevant and material. If I don't, I won't consider it, but you may still raise that point before the Board or the courts, improper failure to consider certain evidence.

Mr. Sinsheimer: I think we are in agreement with respect to that now.

Mr. Van Arkel: Yes.

Mr. Sinsheimer: In addition to the incorporation of Mr. Randolph's testimony from the previous hearings,

he will be produced, as I understand, to testify, with opportunity to all parties to examine concerning any matters developed in the previous testimony or any other matters relevant in this case, and that includes, of course, the Trial Examiner.

Trial Examiner Leff: Now, is this a stipulation you propose entering into when we next meet, or are you prepared [3032] to agree upon it now?

Mr. Sinsheimer: Well, we don't have the exhibits to put in. As I understand it, that is the present understanding of what we are going to agree upon.

There is one point that we are in full agreement on at the present time, and that is that the Trial Examiner is fully authorized, and as far as the parties are concerned may properly read the testimony taken in the Baltimore proceeding and the testimony taken at Indianapolis.

Trial Examiner Leff: Well, your statement has expressed a certain understanding. So that we won't have to go over it again next time, can we get a general agreement among counsel present here today that Mr. Sinsheimer's statement is in accordance with yours?

Mr. Van Allen?

Mr. Van Allen: Yes.

Trial Examiner Leff: Mr. Riley?

Mr. Riley: Yes.

Trial Examiner Leff: Mr. Van Arkel?

Mr. Van Arkel: Yes.

Trial Examiner Leff: Except for the reservations that were made during the course of the discussion, and those reservations, of course, will be read into Mr. Sinsheimer's statement.

Mr. Van Arkel: Yes, with those reservations I am in [3033] accord with what he said.

* * *

[3042] * * * Mr. Sinsheimer: We are now proposing to introduce by stipulation a number of papers, documents, and also certain testimony taken in two other cases, matters which were previously referred to in the hearing on April 15. I will ask the reporter to mark as Board's Exhibit 72-A for identification a letter dated January 22, 1948, addressed to me, bearing the signa-

ture of Thomas J. Edwards, relating to the operations of the United Press.

(Document referred to was marked Board's Exhibit No. 72-A for identification.)

Mr. Sinsheimer: As Board's Exhibit 72-B for identification, an affidavit consisting of two pages dated January 5, 1948, signed Edward M. Gundy.

(Document referred to was marked Board's Exhibit No. 72-B for identification.)

Mr. Sinsheimer: As Board's Exhibit 72-C an affidavit of Frank J. Starzel, dated January, 1948, consisting of two pages.

(Document referred to was marked Board's Exhibit No. 72-C for identification.)

Mr. Sinsheimer: As Board's Exhibit 72-D for identification, copy of an affidavit of Cranston Williams, dated December 19, 1947, consisting of four pages.

[3043] (Document referred to was marked Board's Exhibit No. 72-D for identification.)

Mr. Sinsheimer: I will stipulate with counsel that these are true and correct copies of what they purport to be, and that the persons named therein are qualified to testify as to the matters contained therein, and that if each of the persons whose names are attached and signed to Board's Exhibit 72-A through D, inclusive, were called as a witness with respect to such matters, and duly qualified, he would testify that the matters contained therein are true and correct.

Mr. Van Arkel: I would prefer simply to stipulate that if these persons were called as witnesses, they would testify to the facts that are in the documents which have been offered, and I am willing to so stipulate.

* * *

[3045] Trial Examiner Leff: Very well, the stipulation is approved. Exhibits 72-A through 72-D, inclusive, are admitted.

(Documents heretofore marked for identification Board's Exhibits 72-A through 72-D, inclusive, were received in evidence.)

Mr. Sinsheimer: I also will stipulate with counsel that Board's Exhibit 7-A through and including 7-T, which have previously been received in evidence, were prepared by either the International Typographical

Union, Mr. Woodruff Randolph, its president, or the executive council of that union, as indicated upon said exhibits.

Trial Examiner Leff: Is it so stipulated?

Mr. Van Arkel: I do not think you have finished, have you?

Trial Examiner Leff: I am sorry.

Mr. Sinsheimer: No. And these exhibits which bear dates were mailed to all of the subordinate local unions of the International Typographical Union on or about the dates contained on each of said exhibits.

Mr. Van Arkel: Well, I think that stipulation is satisfactory with one reservation, however, which I think should be made explicit on the record, and that is by stipulating that they were prepared and mailed out; we do not stipulate that all of them were received by all local unions, and we could not stipulate anything with respect to the action which any local union may or may not have taken pursuant to [3046] sending out of those documents.

Mr. Sinsheimer: As I understand it, though, we are stipulating that they are first authentic documents prepared by either the International Union and its executive council or its president, Mr. Randolph, in the official course of the business of the International Typographical Union, is that correct?

Mr. Van Arkel: That is correct.

Mr Sinsheimer: And second, that these were mailed out, or generally circulated throughout the United States, is that right?

Mr. Van Arkel: Yes, I would stipulate to that, pointing out that in each case they were mailed out approximately three or four days after the date appearing on them.

Mr. Sinsheimer: I will ask the reporter to mark as Board's Exhibit 73-A for identification a page headed "Postcard Bulletin No. 108."

(Document referred to was marked Board's Exhibit No. 73-A for identification.)

Mr. Sinsheimer: As Board's Exhibit 73-B for identification, [3047] a paper entitled "Postcard Bulletin No. 109."

(Document referred to was marked Board's Exhibit No. 73-B for identification.)

Mr. Sinsheimer: As Board's Exhibit 73-C for identification, a paper entitled "Postcard Bulletin No. 112."

(Document referred to was marked Board's Exhibit No. 73-C for identification.)

Mr. Sinsheimer: As Board's Exhibit 73-D for identification, a paper entitled "Postcard Bulletin No. 115."

(Document referred to was marked Board's Exhibit No. 75-D for identification.)

Mr. Sinsheimer: As Board's Exhibit 73-E for identification, a paper entitled, "Postcard Bulletin No. 116."

(Document referred to was marked Board's Exhibit No. 73-E for identification.)

Mr. Sinsheimer: As 73-F for identification, a paper entitled "Postcard Bulletin No. 120."

(Document referred to was marked Board's Exhibit No. 73-F for identification.)

Mr. Sinsheimer: I will stipulate with counsel that Board's Exhibits 73-A through 73-F for identification were prepared by the executive council of the International Typographical Union on or about the dates set forth thereon, with the exception of 73-A, which contains no date on the document. I will further stipulate that each of these exhibits, [3048] Board's 73-A through F for identification, were mailed to all of the subordinate local unions of the International Typographical Union on or about the dates set forth.

Mr. Van Arkel: In addition to the reservations which I have previously expressed, I would like to make one further reservation, and that is that I would like to have it understood that if we feel it desirable, we may at a later date fill in the series by introducing those numbers which are missing in the offer.

But to those few reservations, I will accept the stipulation.

Mr. Sinsheimer: Subject only, of course, to whether the others are relevant or not. We have no objection to offering them at the present time if counsel so desires.

Mr. Van Arkel: I do not have them with me.

Trial Examiner Leff: The stipulation is approved.

Mr. Sinsheimer: With respect to Board's Exhibit 73-A, there is no date appearing on this copy, I will

stipulate with counsel that it was issued prior to January 6, 1948, and will ask counsel if he can obtain the exact date upon which Bulletin No. 108 was prepared.

Mr. Van Arkel: I am willing to stipulate it is before January 6. I am further willing to make an effort to find out the exact date on which it was distributed, which I do not have now.

[3049] Trial Examiner Leff: The stipulation is approved.

Mr. Sinsheimer: I will now offer Board's Exhibit 73-A through 73-F in evidence.

Trial Examiner Leff: Any objection?

(No response.)

Trial Examiner Leff: Hearing noe, 73-A through 73-F are admitted.

(Documents heretofore marked Board's Exhibits 73-A through 75-F for identification, were received in evidence.)

Mr. Sinsheimer: I will now ask the reporter to mark Board's Exhibit 74-A for identification a paper entitled "Copy of Wire Received by C. M. Baker, President of San Francisco Typographical Union, No. 21," on or about January 16, 1948, and as Board's Exhibit 74-B for identification, a document consisting of three pages, the first bearing the letterhead of "Employing Printers Association of San Francisco," dated December 22, 1947, addressed to all members, which contains therein certain correspondence. The third page of this document is signed L. A. Ireland, Secretary.

(Documents referred to were marked Board's Exhibits 74-A and 74-B for identification.)

Mr. Sinsheimer: I will also state for the record that the reference "Pet.-36" appears as an exhibit number in the Federal Court injunction case 1857.

[3050] I will first offer to stipulate with counsel that Board's Exhibit 74-A for identification is an exact copy of a Western Union telegram sent to and received by Claude M. Baker, President of the San Francisco Typographical Union, No. 21, on or about January 16, 1948, and that this telegram was sent to Mr. Baker by the executive council of the International Typographical Union, and that, further, the names of the members of said SAIT council were affixed to said telegram.

Mr. Van Arkel: I am willing to stipulate with this reservation, however. Mr. Examiner, I should have noted a same reservation with respect to Exhibit 73-A. I have previously objected to these postcard bulletins on two grounds, objected to the relevancy and competency. That is, on two grounds, first, that they are expressions of views, arguments, and opinions, and secondly, that they relate to the internal affairs of the union.

I should like my objection to the relevancy and competency of Board's Exhibit 73-A on that ground noted.

Trial Examiner Leff: The objection is noted and overruled.

Mr. Van Arkel: Similarly I am willing to enter into the stipulation proposed by Mr. Sinsheimer with the same objection to the relevancy and competency of this Board's Exhibit 74-A.

Trial Examiner Leff: Same ruling. I take it that the [3051] stipulation is acceptable?

Mr. Sinsheimer: That is true.

Trial Examiner Leff: It is approved.

Mr. Sinsheimer: I will offer Board's Exhibit 74-A.

Trial Examiner Leff: 74-A will be received.

(Document heretofore marked Board's Exhibit No. 74-A for identification, was received in evidence.)

Mr. Sinsheimer: With respect to Board's Exhibit 74-B, I will stipulate that this is a true and correct copy of a letter of December 22, 1947, addressed to the members of the Employing Printers Association of San Francisco, and signed by L. A. Ireland, secretary of that association. I will further stipulate that the letter contains therein correct copies of correspondence between Mr. C. M. Baker, president of San Francisco Typographical local union, No. 21, and Mr. Ireland as of the dates referred to in Board's Exhibit 74-B for identification.

And further, that Mr. Baker is president of the San Francisco Typographical Union No. 31.

Mr. Van Arkel: I am willing to stipulate that the letters referred to herein were sent and received, and we have no objection to them on the ground of their accuracy or authenticity. We do object to them on the ground of relevancy and competency. I think it quite clear that this relates to [3052] matters occurring in the commercial branch of the industry and not in the newspaper branch.

Trial Examiner Leff: Do you want to be heard on that, Mr. Sinsheimer?

Mr. Sinsheimer: Yes, it is true that it refers to matters in the commercial branch of the industry.

However, Board's Exhibit 74-A refers to these letters, and is a mandate to Mr. Baker with respect to any proposal for a newspaper agreement.

To understand what Board's Exhibit 74-A refers to, I believe Board's Exhibit 74-B is necessary, and is therefore relevant.

Trial Examiner Leff: Any objection?

Mr. Van Arkel: If I may say this, Mr. Examiner, Mr. Sinsheimer makes it clear from his statement that the only relevancy in this for the light it sheds on Board's Exhibit 74-A. We have previously objected to Board's Exhibit 74-A, so that I would express the same grounds of objection to 74-B, which had previously been expressed to 74-A.

Trial Examiner Leff: Objection overruled, 74-B is admitted.

(Document heretofore marked Board's Exhibit 74-B for identification received in evidence.)

* * *

[3053] * * * Mr. Sinsheimer: I will now ask the reporter to mark as Board's Exhibit 75-A for identification a booklet entitled "In the District Court of the United States for the Southern District of Indiana, Indianapolis Division, Civil No. 1587, pages 472 to 474, inclusive, Part 5, 1948."

(Document referred to was marked Board's Exhibit No. 75-A for identification.)

Mr. Van Arkel: Whose testimony is that?

Mr. Sinsheimer: It is the beginning of Lewin's testimony.

As Board's Exhibit 75-B for identification, a document with the same heading and pages 484 to 505, inclusive, dated March 5, 1948.

(Document referred to was marked Board's Exhibit No. 75-B for identification.)

Mr. Van Arkel: Whose testimony?

Mr. Sinsheimer: The same.

Trial Examiner Leff: What city is that?

Mr. Sinsheimer: New Bedford, Massachusetts.

As Board's Exhibit 75-C for identification, a document with the same heading, and numbered pages 506 to 742, dated March 8, 1948.

(Document referred to was marked Board's Exhibit No. 75-C for identification.)

[3054] Mr. Van Arkel: Whose testimony?

Mr. Sinsheimer: That contains testimony of Mr. Charles J. Lewin, with respect to New Bedford, Massachusetts; testimony of Mr. Charles M. Lyon with respect to New Bedford, Massachusetts; testimony of Joseph A. Kobach with respect to New Bedford, Massachusetts. That is through page 596. Commencing at page 599 is the testimony of Mr. Alvah Chapman with respect to Columbus, Georgia; Mr. F. Carter, with respect to Columbus, Georgia; Richard A. White, with respect to Columbus, Georgia; and John Mahone with respect to Columbus, Georgia.

I believe two pages, from 596 to 599, are irrelevant in any event.

Trial Examiner Leff: Are you offering them?

Mr. Sinsheimer: With respect to these, I will offer them after making a stipulation with counsel for respondent.

I will stipulate that the testimony contained in Board's Exhibit 75-A through 75-C may be considered as if taken in this proceeding subject to our previous agreement that the Trial Examiner is not obligated to make a credibility finding on an issue if he does not consider that he can properly do so without the presence of the witness, but that he may make such credibility findings if he deems that he can properly do so.

Mr. Van Arkel: That is correct, and subject, further, as I understand it, to the same reservations that were made previously with respect to objections which may have been [3055] noted in the testimony received in the Indianapolis proceeding.

Trial Examiner Leff: And subject to that understanding which was expressed on the record at our last meeting, is that correct? We covered other matters, all of which I cannot recall at this moment.

Mr. Sinsheimer: Subject to any matters that we did agree upon at the April 15 meeting, the last meeting.

I believe it should also be stated that this should be taken as if testified to in this proceeding on the dates set forth on the exhibits; that is, March 5 and March 8, 1948.

Trial Examiner Leff: Exhibits 75-A through 75-C are admitted.

(Document heretofore marked Board's Exhibits Nos. 75-A through 75-C for identification, were received in evidence.)

Mr. Sinsheimer: I will ask the reporter to mark as Board's Exhibit 76-A for identification a copy of an affidavit of Charles J. Lewin, dated December 18, 1947.

(Document referred to was marked Board's Exhibit 76-A for identification.)

Mr. Sinsheimer: As Board's Exhibit 76-B for identification, a copy of a letter dated August 21, 1947, addressed to Mr. Charles J. Lewin, signed, "New Bedford Typographical Union No. 276."

[3056] (Document referred to was marked Board's Exhibit No. 76-B for identification.)

Mr. Sinsheimer: As Board's Exhibit 76-C for identification, a copy of a letter of October 3, 1947, addressed to Mr. Charles J. Lewin, signed "New Bedford Typographical Union No. 276."

(Document referred to was marked Board's Exhibit No. 76-C for identification.)

Mr. Sinsheimer: As Board's Exhibit 76-D for identification, a copy of a letter dated December 19, 1947, addressed to Mr. James A. Hayes, president, New Bedford Typographical Union No. 276, signed Charles J. Lewin.

(Document referred to was marked Board's Exhibit No. 76-D for identification.)

Mr. Sinsheimer: As Board's Exhibit 76-E for identification, six pages, the first of which is headed "New Bedford Typographical Union No. 276, Supplement, Conditions of Employment," to which is attached another page bearing the head, "Supplement Conditions of Employment." These first two pages are letter-size. The four other pages are headed "Conditions of Employment," and these pages approximate legal-size paper.

(Document referred to was marked Board's Exhibit No. 76-E for identification.)

Mr. Sinsheimer: Now, with respect to Board's Exhibit 76-A [3057] for identification, I will stipulate with counsel that this is the affidavit referred to in the testimony of Mr. Lewin in the injunction proceeding which testimony has been received here-in as Board's Exhibit 75-A through C, inclusive.

• • •

[3058] • • • Trial Examiner Leff: Subject to the understanding expressed at our last meeting, 76-A is received.

(Document heretofore marked Board's Exhibit No. 76-A for identification, was received in evidence.)

Mr. Sinsheimer: I will stipulate with counsel that Board's Exhibit 76-B and C are true copies of letters which were sent by the local union to Mr. Charles Lewin.

Mr. Van Arkel: Yes, on or about the dates set forth. No objection.

Mr. Sinsheimer: I offer Board's Exhibits 76-B and C.

Trial Examiner Leff: Admitted.

[3059] (Documents heretofore marked Board's Exhibits 76-B and 76-C for identification, were received in evidence.)

Mr. Sinsheimer: I will further stipulate that Board's Exhibits 76-D and E are true and correct copies of the two exhibits referred to in Mr. Lewin's testimony at the injunction proceedings contained in Board's Exhibit 75-A through 75-C, and which appear in that injunction proceeding as Petitioner's Exhibits 45 and 46, and are referred to in the testimony thereto as exhibits.

Mr. Van Arkel: No objection.

Trial Examiner Leff: 76-D and E are admitted.

(Documents heretofore marked Board's Exhibits 76-D and 76-E for identification were received in evidence.).

• • •

Mr. Sinsheimer: I will ask the reporter to mark as Board's Exhibit 77, a series of papers which were received in evidence in the injunction proceedings and are referred to in the testimony in the Board's Exhibit 75-A through C as Petitioner's Exhibits 47 through and including 55.

Mr. Van Arkel: So you are marking them 77-47, and then in sequence?

[3060] Mr. Sinsheimer: Yes.

Trial Examiner Leff: Are the court markings on these exhibits?

Mr. Sinsheimer: The court markings are on the exhibits, since they are photostats of those exhibits.

(Documents above referred to were marked Board's Exhibits Nos. 77-47 through 77-55 for identification.)

Mr. Van Arkel: They appear to be accurate. I have no objection to them, subject to checking them.

Mr. Sinsheimer: As I understand, they are then being marked 77-47, 48, and so on, as the exhibits appear and as I previously indicated they are photostats of the court exhibits.

Trial Examiner Leff: The series of exhibits marked Board's Exhibits 77-47 through 77-55 are admitted.

(Documents heretofore marked Board's Exhibits 77-47 through 77-55 for identification, were received in evidence.)

Mr. Sinsheimer: I will ask the reporter to mark as Board's Exhibit 78-A for identification a document consisting of two pages entitled "Renewal Agreement Between the State Company and the Record Publishing Company, and Columbia Typographical Union No. 34."

[3061] (Document referred to was marked Board's Exhibit No. 78-A for identification.)

Mr. Sinsheimer: As Board's Exhibit 78-B for identification, a document consisting of three pages entitled "Renewal Agreement Between the Advertiser Company and the Montgomery Typographical Union No. 222," bearing date of February 2, 1948.

(Document referred to was marked Board's Exhibit No. 78-B for identification.)

Mr. Sinsheimer: I will stipulate with counsel that Board's Exhibit 78-A for identification is a correct copy of document entitled "Respondent's Exhibit 1," which was received in evidence in the injunction case, No. 1587, and is referred to in the testimony in Board's Exhibit 75-A to C, inclusive, and that Board's Exhibit 78-B for identification is a correct copy of a document marked and received in evidence in the same injunction proceeding as Respondent's Exhibit 2, which is also referred to in the aforesaid testimony.

Mr. Van Arkel: I am so willing to stipulate, and I have no objection.

Trial Examiner Leff: 78-A and B are admitted.

(Documents heretofore marked Board's Exhibits 78-A and 78-B for identification, were received in evidence.)

Mr. Sinsheimer: I will ask the reporter to mark as Board's [3062] Exhibit 79 an affidavit of W. Edward Swenson, dated April 16, 1948, consisting of one page.

(Document referred to was marked Board's Exhibit No. 79 for identification.)

Mr. Sinsheimer: I will stipulate that this may be received in this proceeding as if Mr. Swenson had appeared and testified therein, so that it is subject to the previous agreement reached, an understanding with respect to testimony in the injunction case.

Mr. Van Arkel: I am prepared to so stipulate.

Trial Examiner Leff: The stipulation is approved. Any objection To Board's Exhibit 79?

(No response.)

Trial Examiner Leff: Hearing none, Board's Exhibit 79 is received.

(Document heretofore marked Board's Exhibit No. 79 for identification, was received in evidence.)

Mr. Sinsheimer: I will ask the reporter to mark as Board's Exhibit 80-A a booklet entitled "Official Report of Proceedings before the National Labor Relations Board, Docket No. 5-CB-1, bearing date of October 21, 1947, and page number 650 to 792.

(Document referred to was marked Board's Exhibit No. 80-A for identification.)

Mr. Sinsheimer: As Board's Exhibit 80-B, a booklet, same [3063] heading, bearing date of October 22, 1947, and pages 793 to 964.

(Document referred to was marked Board's Exhibit No. 80-B for identification.)

Mr. Sinsheimer: As Board's Exhibit 80-C, a booklet of the same heading bearing date of October 23, 1947, and pages 965 to 1099.

(Document referred to was marked Board's Exhibit No. 80-C for identification.)

Mr. Sinsheimer: As Board's Exhibit 80-D for identification, a booklet entitled "In the District Court of the United States for the South District of Indiana, Indianapolis Division, Civil No. 1587, Testimony of Wood-

ruff Randolph," and bearing dates of March 11 and 12, 1948.

(Document referred to was marked Board's Exhibit No. 80-D for identification.)

Mr. Sinsheimer: With respect to Board's Exhibit 80-A for identification, we have reference only to the pages beginning at 730. That commences the testimony of Mr. Randolph. With respect to Board's Exhibit 80-B, the entire volume is included. And with respect to 80-C, up to and including page 1083, which concludes the testimony of Mr. Randolph. With respect to Board's Exhibit 80-D, the entire volume.

I believe that is correct, Mr. Van Arkel.

Mr. Van Arkel: Yes.

[3064] Mr. Sinsheimer: We will offer to stipulate with counsel, subject to certain corrections in these records, which we will present in writing, that this testimony taken in case 5-CB-1, and the testimony taken at Indianapolis in Civil case 1587 may be considered as if taken in this proceeding on the dates set forth on the exhibits, without prejudice to the fact that the dates set forth on Board's Exhibits 80-A through C were prior to the issuance of complaint herein.

Mr. Van Arkel: That is correct, and I take it, subject to the other reservations which we expressed at the last meeting.

Mr. Sinsheimer: That is correct.

Trial Examiner Leff: Are you offering 80-A?

Mr. Sinsheimer: I will offer 80-A through D, inclusive, in evidence.

Trial Examiner Leff: Admitted.

(Documents heretofore marked Board's Exhibits Nos. 80-A through 80-D, inclusive, for identification, were received in evidence.)

Mr. Sinsheimer: With respect to 80-A through 80-C, there are three exhibits which I believe to be pertinent referred to therein, which are not contained in this record. They are the Baltimore proposal of the union, employer's Exhibit 1, Board's Exhibit 15—that is, that part of Board's Exhibit 15 consisting of the counter proposal of the Graphic Arts League—and Respondent's Exhibit 8, a letter of about September 25, [3065] 1947, from Mr. Randolph to Mr. Branan. Mr. Van Arkel, I believe, will

be able to furnish copies of those exhibits, and has stated that he will attempt to do so.

Trial Examiner Leff: What are you numbering them?

Mr. Sinsheimer: Employer's Exhibit 1 from Baltimore, the Baltimore proposal, will be number 81-A, that part of Board's Exhibit 15 consisting of the Graphic Arts counter proposal will be numbered 81-B, and the Randolph letter of about September 25, Respondent's Exhibit 8 in the Baltimore case, will be numbered 81-C herein.

(Documents referred to were marked Board's Exhibits 81-A through 81-C for identification.)

Trial Examiner Leff: Any objection?

Mr. Van Arkel: No objection.

Trial Examiner Leff: 81-A through 81-C are received.

Mr. Sinsheimer: I think we should have the particular documents and withhold the offer of them.

Mr. Van Arkel: Further than that, Respondent's Exhibit No. 8 was again an internal union communication, and we object to that on the ground of competency and relevancy, but I suggest that I tried to get these for our next meeting.

Trial Examiner: We will reserve Nos. 81-A through 81-C.

(Documents heretofore marked Board's Exhibits Nos. 81-A through 81-C were reserved.)

* * *

[3068] * * * WOODRUFF RANDOLPH, called as a witness by and on behalf of the I.T.U. and, having been first duly sworn, was examined and testified as follows:

Trial Examiner Leff: Please be seated. Your full name?

The Witness: Woodruff Randolph.

Trial Examiner Leff: Where do you live, Mr. Randolph?

The Witness: Indianapolis, Indiana.

Direct Examination

Q. (By Mr. Van Arkel) What is your present position, Mr. Randolph?

[3069] A. President of the International Typographical Union.

Q. Mr. Randolph, have you examined the records of the Typographical Union with reference to the former practice of adopting sales of prices by the International Typographical Union locals?

A. I have.

Q. I show you the scale of prices of Typographical Union No. 18, and ask if that is an accurate copy of what is shown in the records of the Typographical Union Local No. 18?

A. It is a photostatic copy of the original document which I personally examined, and I had these photostats made from the original document.

Mr. Van Arkel: I offer in evidence, if the Examiner please, Respondent's Exhibit 15.

Mr. Sinsheimer: I object, as being irrelevant.

Mr. Van Arkel: I consider it relevant, for the same reasons brought out in the Baltimore hearing, to show the origin of the laws of the Baltimore Typographical Union and the method by which the union is historically operated.

Mr. Diamond: Was that not covered in the Baltimore transcript?

Mr. Van Arkel: It is a supplement in the Baltimore record in that respect.

Trial Examiner Leff: Suppose we have all that.

Mr. Van Arkel: This is in order to lay a foundation, Mr. [3070] Examiner, for certain constitutional and legal arguments which we propose to make concerning the rights of people, workers, to join together and to decide the terms under which they will work.

Trial Examiner Leff: Objection overruled. Respondent's Exhibit 15 is received.

(Document referred to was marked Respondent's Exhibit 15 and received in evidence.

Q. (By Mr. Van Arkel) Mr. Randolph, I show you a book which is marked as the constitution and rules of The Troy Typographical Union No. 52, together with a scale of prices. I will ask you if that book is what it states it is.

A. I received this book from the President of Troy Typographical Union No. 52, and it is from their files.

It indicates that it is the official book of the recording secretary of Troy Typographical Union No. 52 as of 1868.

It contains the constitution of the union, its rules of order, and the scale of prices of the union and a list of members' names in the back of the book.

• • •

[3072] • • • Q. (By Mr. Van Arkel) Mr. Randolph, I would like to direct your attention to the sections of the Troy constitution dealing with scales of prices and strikes.

Mr. Diamond: Mr. Examiner, this is going to be offered in evidence, is there any reason for reading it?

Mr. Van Arkel: We have no copies, that is why I am asking him to read in portions.

Trial Examiner Leff: You are entitled to examine, I suppose you are entitled to have it offered, if you insist.

The Witness: Article 17, scale of prices, section 1:

"The union shall have power to establish and regulate the prices for which its members shall work, and no member shall work for prices lower than those established by the union.

"Section 2, a proposition to amend, alter or revise the scale of prices shall be submitted in writing, specifying the changes desired to be made one month before [3073] action is taken thereon.

"Section 3, no proposition to amend, alter, or revise the scale of prices shall be voted upon when a less number than one-half of the members entitled to vote are present, and a three-fourths vote shall be necessary to adopt such amendment, alteration, or revision.

"Section 4, in voting upon the adoption of any amendment, alteration, or revision of the scale of prices, the vote shall be taken by yeas and nays, and no member shall be allowed to veto such question who does not hold an unexpired working card from this union, and who has not been a member of the union for three months.

"Section 5, the financial secretary shall call a roll of those entitled to vote, and upon his return of such a vote, the president shall declare the result.

"Section 6, no member shall be excluded from voting upon the question of amendment, alteration, or revision of the scale.

"Article 18, strikes.

"Section 1, when the proprietor or proprietors of any office under the jurisdiction of the union shall fail

or refuse to comply with the requirements of this constitution, or refuse to pay the scale of prices [3074] adopted by the union, it shall be the imperative duty of the members of this union employed therein to cease work until such time as the proprietor or proprietors shall accede to their demands, provided they are directed to do so by the union.

"Section 2, members shall not join in any strike in any office until the cause of complain is laid before a stated meeting of the union, or before a special meeting called for the purpose of considering such matter, and it shall take two-thirds of the members present at such meeting to order a strike, one-half of the entire membership being necessary to constitute a quorum.

"Section 3, if any printer shall accept work in an office where the hands are on a strike on any question involving the rights of this union, and shall refuse to quit when notified by the president or recording secretary, if a member, he shall be expelled; if not, he shall forfeit all claim of ever becoming a member of this union."

• • •

Mr. Van Arkel: Mr. Examiner, I believe that a copy of the 1948 constitution and by-laws of the International Union is not in evidence. I will ask Mr. Randolph if that is an [3075] accurate copy of the book of laws of the International Typographical Union effective January 1, 1948.

The Witness: It is.

Mr. Van Arkel: I offer in evidence as Respondent's Exhibit 16, Mr. Examiner, the book of laws of the union for 1948.

Mr. Sinsheimer: No objection.

Trial Examiner Leff: Admitted.

(Document above-referred to was marked Respondent's Exhibit No. 16 for identification, and was received in evidence.)

Q. (By Mr. Van Arkel) Mr. Randolph, I call your attention to paragraph C in what has been designated as Form P-6-A, which reads, "It is understood and agreed that the general laws of the International Typographical Union in effect January 1, 1947, not in conflict with law or this contract, shall govern relations between the parties on conditions not specifically enumerated herein."

Has it been an objective of the International Union to obtain the inclusion of such a clause in agreements which its locals have with employers?

A. It has been the objective of the union, and it has been the practice in the industry to include such a clause. It has been expressed in various ways. Between 1901 and 1922 the obligation to observe the laws of the International Typographical Union was expressed in an arbitration agreement that was [3076] in existence for that period of time. And during that time, it being a recognized obligation, many contracts were—many contracts that were adopted by unions and employers who had become voluntarily and locally bound by the arbitration agreement—did not have the clause specifically mentioned in the contract. The over-all obligation was apparent. But at the expiration of that arbitration agreement in 1922, the Union executive council and the special standing committee of the American Newspaper Publishers Association applied the same principle with reference to such arbitrations as were held under a continuing obligation of the old agreement.

There was no question about the historic practice of the union laws being the basis of a union stop operation. The records that I have examined over the years plainly indicates that to be the fact.

Q. From your knowledge of the collective bargaining which took place in the industry prior to 1947, did unions to your knowledge make concessions of other issues in order to obtain a similar clause in a collective bargaining agreement?

A. It's possible. The recognition of the laws of the International Union as a basis of union composing room operation was well understood. The union was very particular to always hold to that. And I doubt if anything an employer may have wanted to trade for the union laws would have been accepted, certainly not in the International Union offices.

[3077] Q. You mean by that, that such a clause or a similar clause has traditionally be a necessary condition of obtaining the approval of the International Union to an agreement?

A. That's true.

Q. Mr. Randolph, there has been some discussion in the testimony in the course of this case about the effect

of the approval of agreements by the International Typographical Union, and particularly it has been described as an underwriting of an agreement by the International Typographical Union. Do you have any comment on that testimony?

A. The officers of the International Typographical Union have never had any authority to underwrite agreements. The laws have always provided that local unions must forward to the International Union a copy of the proposals they intend to make for a contract. The proposals are then examined to see whether or not the proposal is in accord with the International Union book of laws. The approval of the president of the International Typographical on such a proposal is necessary before a local union can offer to the publishers.

Then the laws have provided that no local union may sign a contract with an employer, until the results of the negotiations have again been screened as to whether or not they are in compliance with the laws of the union. And upon such approval, the local union is free to submit to the union the results of their collective bargaining with the employers.

[3078] Q. Mr. Randolph, there has been introduced in evidence here this morning as Board's Exhibit 78-A and B, copies of reports of agreements between the Columbia Typographical Union and the Montgomery Union. Were those agreements submitted to the president of the International Typographical Union in accordance with its laws?

A. They were.

Q. Were they approved by the Executive Council as being in conformity with the laws of the International Typographical Union?

A. They were.

Q. I show you, Mr. Randolph, a report of agreement dated October 1, 1947, signed by the representatives of the Enid Publishing Company, and Enid Typographical Union No. 613. Was that agreement submitted to the Executive Council of the Union before submission to the Enid Publishing Company?

A. Yes, it was.

Q. Was that approved by the Executive Council on or about October 1, 1947?

A. Yes, it was.

Q. Is that agreement on a form P-6-A?

A. It is a Form P-6-A, yes, with some alterations.

Q. Would you indicate what those alterations were?

A. The local parties substituted a different section on reproduction, Section 33. They eliminated Sections 37 and 38. [3079] They eliminated Sections 41, 43, and 44.

Q. Were there other alterations?

A. They made some alterations in Section 27. They used their own Section 6 of the old agreement instead of Section 15.

Q. And you say that the agreement as so modified was approved by the Executive Council on or about October 1, 1947?

A. Yes.

• • •

Trial Examiner Leff: Is P-6-A a standard form throughout, or does it vary in different localities, except for clauses (a) to (i)?

The Witness: P-6-A was a form that was made up from a standard contract form in existence for many years and supplied to local unions regularly. Many small unions used it rather than make up one of their own. The difference between the old standard form and P-6-A is found in the elimination from [3080] the old contract form of any clauses that would be in violation of the Taft-Hartley law, and the substitution of the word "employees" for the word "members", and the addition of the sections (a) to (i) for union security.

So that the changes I read in the form were changes in contract conditions that had been subject to collective bargaining as a matter of course before and after the Taft-Hartley law.

• • •

[3083] • • • Q. (By Mr. Van Arkel) How many scales have been settled from August 22, 1947, up to April 20th?

Trial Examiner Leff: You may ask that question, and then I shall follow it up with a question, asking how many of those were settled after the injunction case.

Mr. Van Arkel: Very good.

The Witness: The number of scales that have been settled since August 22, 1947, within ITU collective bargaining policy, and its laws, is 792, of which 424 were newspapers settlements, 368 commercial settlements; 792

scales are divided as follows, conditions of employment, 293; voluntary increases, 363; P-6-A agreements, 16; other contracts, 6; interim openings, 112; [3084] extension agreements, 2; totalling 792.

Trial Examiner Leff: Do you have the figures indicated how many of those were settled after the date of the injunction? What was that date?

Mr. Sinsheimer: March 27.

Trial Examiner Leff: March 27?

The Witness: No, I don't have those figures.

Mr. Hanson: Mr. Examiner, I think I can help you there, if I may, if you refer to Mr. Randolph's testimony at Indianapolis on pages 121 and 122 of the record, he gave that breakdown up to that date, which was March 11. You will find it right there in the record as of that date.

• • •

Q. (By Mr. Van Arkel) Mr. Randolph, I should like to turn for a moment to the question of the problem of reproduction. Have you examined the records of the union with reference to the question of reproduction?

A. Yes, I have.

Q. What was the earliest date at which you found that a question [3085] arose concerning the reproduction?

• • •

A. The matter first came up in 1872.

Q. What do the union's records show with respect to that?

A. It shows that in New Albany, Indiana, the employer borrower some type from a newspaper in Louisville to be used in his paper, and the union insisted that the matter be set in his [3086] own plant. They system in vogue in those days before the linotype machine was invented, was one of piece work, and all of the matter appearing in any newspaper was paid for on a piecework basis.

The first objection to the introduction of outside composition was to that borrowing type from some other place.

Bearing in mind that the plants each had their own volume of type and that it was all hand set, the borrowing of type was something that affected the earnings of the members working that newspaper. And from that beginning the unions, without variation, insisted upon each plant

doing its own composition. and even type that was standing in an office and re-used with corrections and alterations, was handled as though it were a complete new take, as it was called in those days.

• • •

[3087] • • • Q. (By Mr. Van Arkel) Mr. Randolph, in your capacity as president of the union, do you have charge of the records of the International Typographical Union?

A. I have some in my own office, but the Secretary-Treasurer is officially in charge of the records of the union, and for a great many years I was the Secretary-Treasurer of the International Typographical Union. Any officer has access to the vaults, and I have examined the records of the International Union at various intervals, and they are complete as regards ITU conventions from, and beginning with, 1850.

The third convention of Journeymen Printers held for the purpose of forming a national body, the national Typographical Union was formed. The records of all of those conventions are there. And the action that each convention has taken on vital matters is a matter of record.

Q. Did you examine the records of the union with reference to the question of the origins of the rule against reproduction [3088] of matter?

A. Yes, I did.

Q. Did you cause certain extracts of those records to be made?

A. I did that.

Q. Would you read the earliest extract which you found on that subject?

A. It is from the proceedings of the 20th Convention, for the year 1872-73, page 60, the fourth day, Friday, June 7. The quotation begins with fourth day, Friday, June 7:

> "We have considered the case of Mr. Jocelyn versus New Albany Union. The facts are these: One of the New Albany dailies had a practice of borrowing matters from a Louisville daily. The question was brought before the union and it decided that such matters should be paid for according to the scale.
>
> "Mr. Jocelyn appeals to this body from the action of the union. The committee believes that the transfer of matter from one firm to that of another is detri-

mental to both proprietor and printer and should not be allowed. We recommend the appeal be dismissed."

Q. Did it appear from those records, who Mr. Jocelyn was?

A. He was the employer who borrowed the type.

Q. Were there later references to this matter in the proceedings of the conventions, Mr. Randolph?

[3089] A. There is the next convention, the 21st convention, on page 57:

"Evening session. Resolved, that it is the sense of the International Union to discountenance the practice prevailing in several cities of loaning and borrowing matters between morning and evening newspapers."

That is all of that convention.

Q. Did subsequent conventions, Mr. Randolph, continue to deal with that problem?

A. Yes. The conventions for subsequent years dealt with the matter and adopted similar resolutions, and eventually the general law of the union was amended to incorporate the prohibition against loaning or borrowing matter, and as the years went on, the law was increasingly amended to take care of the matter of bringing into a newspaper composition or matrices of composition performed in other places.

In the evolution of the industry, the introduction of the linotype machine and the stereotyping, caused the transfer of matrices from shop to shop. And that was handled in the same way as the transfer of type, or the borrowing of type.

And as regards the transferring of matrices of advertisements, the union did not require—the International Union did not require—the reproduction or setting of National advertisements, but it has always held to the necessity of resetting advertisements printed in one newspaper, the matrices [3090] of which were given to another newspaper free of charge and which would deprive our members of work in the shop receiving the matrice.

Q. When was the linotype first introduced?

A. Approximately 1890.

Q. You testified that up to that time, work in composing rooms had been largely paid for on a piecework basis, is that correct?

A. That's right.

Q. Would you explain, did the introduction of the linotype change that method of paying printers?

A. With the introduction of the linotype machine the piece system began to be eliminated, and at this time has been entirely eliminated.

Q. What, if any, effect did that have on the question of reproduction?

A. The introduction of the linotype machine caused a vast increase in the amount of printing done. So far as the effect of the machine and the matter of reproduction, I would say that its only effect was to increase the volume of business.

But for a great many years after that, very little ad composition was done by linotype machines.

Q. I believe you testified that before the linotype machine was introduced, when men were being paid on a piecework basis, they were paid for any matter which went into the newspaper, [3091] is that correct?

A. That's right.

Q. On a piecework basis?

A. That's right.

Q. Would it be fair to say that the process of reproduction was a substitute for the earlier payment?

A. It was not a substitute, it was just simply an evolution of the principle involved that the unions supplied men to a newspaper to get out all of its work, and that it was a violation of that principle to inject free of charge composition that the men wouldn't have any opportunity to work on.

Q. In any case, Mr. Randolph, of which you are aware, do printers get paid for reproducing matter without actually reproducing it?

A. No.

Q. And has it been traditional in the past that the type is actually reset in the process of being reproduced?

A. That is true. It is actually reset.

* * *

[3092] * * * Q. (By Mr. Van Arkel) Let me ask this, Mr. Randolph, have you had occasion to discuss with newspaper publishers their feelings about the reproduction rule?

A. I have.

Q. And what is the opinion of newspaper publishers with respect to the reproduction rule?

Mr. Hanson: I object to that question unless he specifies who, what, when and where.

Trial Examiner Leff: Objection sustained.

Q. (By Mr. Van Arkel) Can you give us any specific conversations, Mr. Randolph?

A. Yes, I can recall a conversation for a scale negotiation in 1923 with the Chicago Newspaper Publishers.

Mr. Hanson: When?

The Witness: 1923, wherein the employers made quite a to-do about reproduction. We had quite a discussion about it. They insisted the union ought to give in on it and eliminate it. I asked them to present to me a proposal eliminating the reproduction and giving the complete proposal as to wages and all the rest of it and I would transmit it to the union. And they said they would prepare such a proposal and that they would propose a reduction in hours equivalent to the amount of time that we had usually spent on reproduction.

[3093] We waited anxiously for that proposal, and after two more days they decided—they told us that after discussing the matter with various publishers, they decided to not make such a proposal as withdraw any objections to reproduction and go on with the negotiation of a wage rate.

That complaint, as to the continuance of reproduction, is the last one that I have heard, and I have engaged in scale negotiations, frequently since 1923.

* * *

[3096] * * * Q. You stated, Mr. Randolph, that certain types of advertising have been traditionally subject to reproduction and certain other types, have not been. Could you describe the difference?

A. The type that has not been subject to reproduction is referred to as national advertising. There is a great volume of that, but it is not reproduced. The type that is reproduced is local advertising, that any one paper may be required to set up for publication, and they advertise, requesting a mat to be inserted in another newspaper in the same city. That mat would be reproduced.

Q. Let us assume that two newspapers are owned by a single corporation, and matter is transferred between the newspapers; is that subject to reproduction?

A. Two newspapers owned by the same firm or corpora-

tion, or published in the same establishment, reproduction is not required.

Q. Even on local advertising?

A. Even on local advertising.

[3097] Q. Do you know what the tradition of the industry is with respect to advertising rates for national advertising and local advertising?

A. National advertising is usually a little higher rate.

• • •

[3100] • • • Q. What have been the consequences of the reproduction rule, Mr. Randolph, so far as competing newspapers are concerned? That is, let us assume a locality with two competing newspapers.

A. An employer setting an ad originally may have the best shop in the city, he may have the best equipment, it may be the largest shop, and the most convenient for an advertiser to have the ad set in because of the service rendered. After that service is rendered to the advertiser, and he requests the mat to be used by that employer's competitor, in effect the first employer is doing composing room work for his competitor. The custom of the industry has been not to charge the advertiser anything for the mat, but to give it to him upon request.

As a matter of fact, the composition is entirely saved to the second or other employers using that mat for an advertisement.

I have repeatedly inquired as to whether or not the advertiser who supplies a mat gets any less rate for his ad, and have repeatedly been informed that he does not, that the advertiser [3101] pays the same amount for the ad as though it were set originally in the composing room of each newspaper.

• • •

Q. (By Mr. Van Arkel) What in your judgment would be the consequences upon employed printers if the reproduction rule were eliminated?

A. There would be less employment, of course.

Q. Would employment also be more sporadic?

A. Yes, it would, because it would be natural that the matter would be used more on the heavy advertising days and with no reproduction on the like days, there would be more people unemployed.

Q. What, in your judgment, would be the consequences of the elimination of that rule so far as competing newspapers in the same locality are concerned?

A. I think it would be a temptation to advertisers to have their work down in the plant that gives them the best service, the best type faces, the best equipment generally, and using [3102] mats of such ads in the other papers, it is encouragement to rely on the best fellow to do all the work.

Trial Examiner Leff: Is that reproduction most often done where the mats are prepared and supplied by the commercial printers?

The Witness: No, that is very seldom the case. The reproduction is practically all as between a mat supplied by one newspaper to another.

Q. (By Mr. Van Arkel) Do you think that the elimination of the reproduction rule might substantially change the practices in the industry of having advertisements set in composing rooms?

A. It might seriously change the method of operation.

Q. In what way?

A. Well, we have at various times considered the opportunity that the publishers would have of establishing a joint composing room to do the work for all of the papers, and thereby eliminate quite a number of printers.

The question of reproduction then would be much more difficult to handle. One shop would be doing the work for all.

The combination of as much as two papers has already occurred along that line. Two papers have formed one corporation to publish and distribute both papers, and in that case there wasn't any reproduction. That principle applied to the largest cities with all of them joining into one composing [3103] room, is a possibility. Whether the employers would want to do it, depends entirely on how they look at the picture.

* * *

[3104] * * * Q. (By Mr. Van Arkel) Mr. Randolph, I would like to direct your attention to paragraph (g) which states that the party of the first part agrees not to require its employees to perform composition or other work executed wholly or in part by employees working under substandard conditions.

Now, did you participate, Mr. Randolph, in the preparation of that section which I have read?

A. Yes, I did.

Q. Now, directing your attention to the phrase "substandard conditions", what types of situations were covered by the phrase "substandard conditions?"

A. We considered that any product of a non-union plant or struck plant would be substandard conditions.

* * *

[3105] * * * Q. (By Mr. Van Arkel) Directing your attention to Respondent's Exhibit 16, the book of laws of the union, Mr. Randolph, have the laws of the union in the past contained provisions covering this matter of working on products produced under substandard conditions?

A. Yes, that is covered by the book of laws in Section 5, Article III, General Laws. It is as follows:

> "Subordinate unions at all times have the right to define as struck work composition executed wholly or in [3106] part by non-members and composition or other work coming from or destined for printing concerns which have been declared by the union to be unfair, after which union members may refuse to handle the work classified as struck work."

Q. For how long a time, approximately, if you know, Mr. Randolph, has that provision been contained in the laws of the union?

A. That provision has been in for a great many years, farther back than I can remember.

Q. Now, from your acquaintance with the individual members of the Typographical Union, what was the attitude as individuals with respect to working on substandard goods?

A. Very antagonistic to any such work.

Q. Could you amplify the reasons for that?

A. Yes. The substandard work is almost without exception produced under substandard conditions, either longer hours or lower wages, or more unfavorable working conditions. Naturally the joining in getting out a printed product of substandard conditions with union conditions inevitably brings about the shaking down of union standards rather than giving them an opportunity to get better.

Q. What would be the attitude of the members of the union with respect to working on products coming from or destined for the plants where other members of the union were on strike?

Mr. Hanson: I object to that question. It is purely [3107] speculative, what will be the attitude.

Mr. Van Arkel: I should say what has been.

Trial Examiner Leff: Objection overruled.

The Witness: The members have considered themselves as engaging in strike breaking if they do work coming from a plant where our own members are on strike.

Q. (By Mr. Van Arkel) Have you had any recent experience with that problem, since August 22, 1947, Mr. Randolph?

A. Yes, there has been a very sad experience in the city of Chicago where our members were on strike on the newspapers and the commercial employers accepted the jobs of setting up advertising for the newspapers where our members were on strike. It has always been the feeling of our people that they were simply riding on their own members, engaging as strike breakers by producing that work in commercial offices.

Q. What is the purpose of paragraph (g) of Form P-6-A? Was it to avoid disputes in the future arising out of that problem,

A. It was our hope that by agreement with the employers we would not be required or requested to do that type of work and that trouble could be avoided.

Q. Now, let us assume that no provision by agreement or otherwise were made to cover that problem, Mr. Randolph. What, in your judgment, would be the economic consequences, so far as the members of the union are concerned, of working on goods which were partially produced under substandard conditions?

[3108] A. It inevitably would result in the employers who were fair in employing our members on all of the processes being at a disadvantage in a competitive way against the employers who were employing our members on only part of the processes, and using substandard work in the rest of the production. As an illustration, if one employer has a complete composing room, using our members on Linotype machines, Monotype machines, and

various casting machines, the make-up and lock-up and proof reading and all of the various things that go into a union product, and another employer who may have a plant employing our members on all those except Linotype and Monotype, it is possible for the man who buys his Monotype and Linotype to buy them from a non-union plant operating under substandard conditions and thereby with a cheaper bid on the job get it from the man who is fair all the way through.

The inevitable result on us is a representation from the completely union plant that he has got to have a lower scale on the Monotype and Linotype in order to compete with the substandard product being worked on in the non-union shop. That is the inevitable consequence of that kind of procedure.

* * *

[3109] * * * Q. (By Mr. Van Arkel) Had you finished your answer, Mr. Randolph?

A. I think so.

Q. Just one further question on that matter. What would be the economic consequences, so far as the members of the union or the union itself are concerned, of members of the union work on [3110] goods coming from or destined for plants where members of the union on strike?

* * *

The Witness: In the first place, it would make it very difficult, perhaps impossible, for members who are on strike to win the strike so long as the employer can have his work done. The members who do the work would be engaging in an activity that they know could be reversed and their reluctance to do it might cause them to quit or disrupt the operations of the plan in which they are working.

Trial Examiner Leff: Mr. Sinsheimer, are you taking the position in this proceeding that the union's insistence upon this struck work clause was itself an unfair labor practice?

Mr. Sinsheimer: I am saying that it is both part of the unfair labor practices, the insistence upon such a clause in the form that it demands, and that it also is seeking a clause which is illegal and therefore would be an unfair labor [3111] practice on both counts.

Trial Examiner Leff: Very well, proceed.

Q. (By Mr. Van Arkel) Did you have the considerations which you have been testifying to in mind, Mr. Randolph, at the time that paragraph (g) of Form P-6-A was prepared?

A. I did.

Q. I would like to call your attention to paragraph (d) of Form P-6-A, Mr. Randolph:

> "The party of the first part agrees that it will not assign any work to be additionally performed by journeymen and apprentice printers to any employee other than journeymen and apprentice printers as defined by the party of the second part", and so forth.

Did you participate in the preparation of that language of paragraph (d), Mr. Randolph?

A. I did.

Q. Was that directed to the problem of jurisdiction, so-called?

A. Only partially. It was partially the matter of jurisdiction and partially to the quality of employees. We have had many contracts providing that work done in the composing room should be done only by journeymen and apprentices, and the union has only recognized two classes of employees in the composing room and they are journeymen and apprentices.

There is a danger in the operation of the Taft-Hartley law with respect to employment and in addition to the traditional [3112] method of only operating composing rooms with journeymen and apprentices, we wanted to make sure that the employer by contract would not undertake to employ partially-trained people and pay them partial wages, and by a growth of that particular method of hiring displace journeymen employees.

Q. First, let me ask you this, Mr. Randolph. Prior to 1947 had it been common for agreements of local unions to contain provisions that work on any new processes should be handled by members of the particular local union?

A. That has been a matter of contract spelled out as to new processes. It has also been a matter of contract by the fact that the ITU General Laws were recognized as operating under the terms of the contract and the General Laws mentioned, what the jurisdiction of the union is.

In that way all new processes of composing room operations have been covered by the union as far back as the records show. Our members are working on all composing room devices now.

Q. Now, are there any new processes in the field, now, Mr. Randolph, which are competitive with composing room operations as they have been conducted in the past?

A. There has been developed in the past six months the complete operation of a newspaper plant or plants without the use of printers. That process has been described and is operating in the Chicago newspapers at this time. They employ no journeymen printers but are using a substitute process in producing the [3113] newspapers, after a fashion, without the use of printers.

Q. What are those processes called?

A. Well, it is called the Varitype process.

Q. Is there also a process called Teletype setters?

A. Well, that is a machine. The Teletype setter is a new device that is used in composing room operation. It operates by the use of a tape-punching device and the use of a Linotype machine to cast the slugs from a paper type.

Q. Now, at the time that you prepared paragraph (d) in Form R-6-A, did you have some information with respect to the economical use of these competitive processes if journeymen's wages were paid on such processes?

A. Yes. We have been watching the Teletype setter for 15 years. We are not opposing its introduction in the composing rooms, but we are trying to supply the same service we always have, namely, that journeymen be trained to operate that device and to be employed on its product, both as to the tape puncher and the casting on the other type of machines.

Q. What information did you have at that time with respect to the possibility of such a process competing with composing room operations if equivalent wages were paid?

A. It, in our judgment, is not economical to use Teletype setters if fair wages are paid for the process. It just substitutes an operator, a Linotype operator, with an operator of the tape-punching device, and still the Linotype machine is used [3114] to cast the slugs. Now, whether an operator causes the machine to punch the

tape or causes the Linotype machine to assemble the matrices, it is still doing the same work and we believe that they are entitled to journeymen pay for doing it.

Mr. Hanson: I move that answer be stricken as not responsive.

Trial Examiner Leff: It is a rather long answer.

Mr. Hanson: He talked about fair wages and not the same wages. The question dealt with the same wages.

Trial Examiner Leff: Will you read the question back?

(Question read.)

Mr. Arnold: May I ask counsel to clarify this? I do not understand whether he means using a more economical process. Do you mean that the same people must be paid the same wages, or do you mean that the people who operate these assumed more-efficient machines must be paid the same wages?

Trial Examiner Leff: I think rather than have the counsel clarify it we should have the witness clarify it.

Mr. Van Arkel: I think so, too.

Mr. Arnold: I did not want to ask the witness the question directly.

Trial Examiner Leff: I will overrule the objection, although perhaps in some instances it was not directly responsive.

Did you hear Judge Arnold's question?

The Witness: Yes. I think I understand what he is trying [3115] to learn.

Mr. Arnold: In other words, you require standby work?

The Witness: My reference to wages is union wages.

Mr. Arnold: But do you require standby workers? Assume that the Teletype printer, the Teletype setting, could be done with one man, and he other needed two. Do you think you should have the same number of men that you had before? Is that your policy?

The Witness: We have never required the employment of any specified number of men for any specified machine. The machine has to stand on its own merits. All we want is union wages for the operator of the machine.

Mr. Arnold: Then you would not apply something like the bonus work policy to these new machines?

The Witness: I am sure you do not know enough about the bonus work policy for me to enlighten you.

Mr. Arnold: Well, I think you should answer the question.

Trial Examiner Leff: May I suggest that you reserve these questions for cross-examination? I thought it would be just one question and one answer. I do not want you to interrupt the proceedings at this time.

Mr. Arnold: I will be glad to follow your suggestion.

Trial Examiner Leff: I appreciate that.

Q. (By Mr. Van Arkel) Now, Mr. Randolph, at the time that you were concerned with drafting Form P-6-A, was it your judgment [3116] that a Teletype setter might be used to replace Linotype operations if the wages paid Teletype setter operators was substantially below those paid Linotype operators?

A. That is true.

Q. Now, let me ask the same questions with respect to the Veritype operation. From your knowledge of the industry, is the Veritype operation a competitive process, competitive in the sense of an economically competitive process, if the persons making up the Veritype material are paid journeymen's wages for doing it?

A. No, sir.

Q. Now, had you, prior to 1947, had clauses in agreements whereby it was agreed that work on Teletype setters should be done at union wages?

A. Prior to when?

Q. Prior to August, 1947.

A. Yes.

Q. Can you give us any instances of such agreements?

A. We had journeymen members employed on Teletype setters in Chicago for quite a number of years.

Q. Pursuant to the agreement?

A. Yes. The introduction of the Teletype setters has been only accentuated in the last year or two and we have a number of agreements that have for years specified that any new process would be handled by journeymen and apprentice members.

[3117] Q. Do you recall any places other than Chicago where such clauses were contained in agreements?

A. There was such a clause in Jamestown, New York, which they violated. The specific section to our people handling that machine was ignored by him when he put the units in the composing room and the union requested that the contract be lived up to, so he took the units out of the composing room and put them in another place and retained outside people to operate the units.

We had journeymen operating Teletype setter units in Corpus Christi, Texas. We had a contract providing for our people doing all the work, a closed shop contract which has not yet expired. That employer respected his obligations and our people are doing the work.

In Abilene, Texas, we had a closed shop contract but on the expiration of it the employer hired a number of Teletype setter operators, trained them to be Teletype setters, and the union organized them into the Typographical Union. They sought to establish a scale of wages for them, but the employer refused to do business on that basis and for that reason we have had a strike in Abilene, Texas.

We have negotiated a number of contracts during the past year or two providing for the use of journeymen members on the Teletype setter units. Whether we have had journeymen employees trained to operate them or whether other operators [3118] had been trained, the agreements provide that within a specified period of time the operators will receive the journeyman rate.

Q. Have you had some experience at Jefferson City, Missouri, with the introduction of teletype setters?

A. Yes, several years ago they were introduced there and people were trained to operate them. The union admitted them into membership on a journeyman basis, they were paid journeyman wages, and after a year or two of operation the employer discarded the units. One of the operators then went to Decatur, Illinois, where we have had journeymen operating them for six or seven years.

Q. Now, assume, Mr. Randolph, that the wage scale to be paid on these competing processes were not fixed by any agreement. What might be the economic effect on the members of the union?

A. It would be the same thing as in shops employing Linotype operators at a low rate of wages. It would amount to the same thing.

There is no difference between being able to employ Linotype operators at a very low scale and employing teletype operator setters at a low scale, or Veritype operators at a low scale. They all have the same purpose, in view of setting type for a newspaper.

Q. In those circumstances, if the wages paid operators and Teletype setters and Veritypers and the like were substantially below the union scale, would that, in your judgment, cause the [3119] substitution of these processes for regular composing room processes?

A. It might, based on the acceptability of the product. In the matter of the Teletype setter, the Linotype product is still the kind of type that is used and in the Veritype process the Linotype machine is not used. It is a matter of producing through the typewriting method—that is, it is not a cast plug. It is typewritten, pasted up and photographed, but the typewriters are very expensive devices are an are not typewriters, but the evolution of the typewriter by which it is sought to accomplish the result of typesetting and the making of a machine that provides for what we call justification, that is, bringing each line to an even point on each side and proper spacing of the words and letters and so on as done on a Linotype machine and is attempted on these other substitute methods.

Then by using the photoengraving process to make a plate of the whole page rather than making serial types from type, it completes the procedure of bypassing the composing room.

Now, whether or not the result is acceptable and the cost is cheaper is something that the newspapers now using that process can testify to. We do not have access to those figures.

Q. Were those considerations to which you have just testified to the considerations which led to the preparation of paragraph (d) in Form P-6-A?

A. Can you refresh my memory on paragraph (d), please?

[3120] Q. Now, did paragraph (d) have any relation to the closed shop?

A. No.

Q. Or to closed shop conditions?

A. No.

Q. Was it directed to any other purpose than the maintenance of the wage standards of employed journeymen and apprentice printers?

A. No.

Q. There has been introduced in testimony here, Mr. Randolph, as Board's Exhibits 74-A and 74-B certain

exchanges of letters between the Employing Printers' Association of San Francisco and San Francisco Typographical Union No. 21. Have you previously seen those letters referred to in Board's Exhibit 74-B, Mr. Randolph?

A. Yes.

Q. When were those called to your attention, if you recall?

A. The Board subpoenaed that document from the International Typographical Union.

Q. I was asking when that matter first came to your attention, Mr. Randolph. Do you recall when you first learned of that exchange of letters?

A. I received a mimeographed document from one of our unions on the West Coast. I cannot give you the date of our receipt of it, but it was perhaps in January.

[3121] Q. Now, that letter refers to a certain understanding which was reached between the San Francisco local of the Union and the Employing Printers' Association. Has any action been taken by way of suspension or reprisal of any kind against the San Francisco Local because of that exchange of letters?

A. No.

Now, did you subsequently learn that it was proposed that a similar agreement be entered into with the newspaper publishers in San Francisco?

A. Yes.

Q. I show you Board's Exhibit 74-A, a copy of a wire purporting to be signed by the members of the Executive Council. Was that telegram dispatched?

A. Yes.

Q. That telegram, I note, states that the Executive Council mandates President C. M. Baker and other officers and members of the San Francisco Typographical Union No. 21 to comply with Sections 2 and 4, Article III of the General Laws, before permitting any proposal for a newspaper for agreement to the members of the Typographical Union No. 21. I believe you have already testified that it was the requirement of the laws of the International Union that such agreements be submitted to the Executive Council before being submitted to employers who were members, union members, for a vote. Is that correct?

A. That is right.

[3122] • • • Q. (By Mr. Van Arkel) Was the so-called mandate contained in that telegram complied with?

Mr. Hanson: I object to the "so-called mandate". I do not like the characterization.

Trial Examiner Leff: Well, was the mandate, in quotes, complied with?

The Witness: Yes.

Q. (By Mr. Van Arkel) What happened subsequently?

A. The president, in San Francisco, in compliance with the mandate sent me a telegram outlining the proposition that he [3123] wanted to submit to the union. The Executive Council considered it and decided that it was not in compliance with our laws or our policy and the president of the union was advised to that effect.

Q. What, if anything, happened subsequently?

A. A copy of the decisions of the Council had been sent to the several newspaper offices for the information of our members, and when the union meeting, which had already been called, took up the consideration of the newspaper scale, President Baker simply announced that the publishers had offered a voluntary increase of $10.50 without any contract or commitment of any kind and were going to put it into effect immediately, and that was the conclusion of the matter.

Q. Now Mr. Randolph, in the course of your testimony at Indianapolis you had occasion to refer to certain extracts from the bulletins issued by Mr. Dale, Chairman of the Special Standing Committee of the American Newspaper Publishers Association. I will show you what purports to be a series of extracts from those bulletins.

Are you on the mailing list of the Special Standing Committee of the American Newspaper Publishers Association, Mr. Randolph?

A. Yes.

Q. Did you cause these extracts which I have handed you to be copied from the bulletins of the Special Standing Committee?

A. I did.

[3124] Q. And are they to your knowledge accurate copies of what appears in those bulletins?

A. They are.

Mr. Van Arkel: I offer in evidence as Respondent's Exhibit 17 these extracts.

• • •

(The document referred to was marked as Respondent's Exhibit No. 17 for identification.)

• • •

[3128] • • • (The document heretofore marked as Respondent's Exhibit No. 17 for identification was received in evidence.)

• • •

Q. (By Mr. Van Arkel) Mr. Randolph, under the laws of the International Typographical Union, must the ITU sanction the payment of any strike or lock-out benefits?

A. Yes.

Q. And prior to paying any strike or lock-out benefits, is it required that a representative of the International Union attempt to adjust the dispute in any local situation?

A. That is true.

Q. Is that the International President or some representative of the International President?

[3129] A. The laws of the union provide that when in the opinion of the local officers a disagreement may result in a strike the local president is required to notify the International president and he is required to send a representative of some person in an effort to adjust the difficulty, and if he cannot adjust it the local union may request sanction of a strike or a lock-out, as the case may be.

Then the Executive Council acts thereon, either grants or does not grant it

Q. Does the Executive Council in granting that approval for the payment of strike or lock-out benefits also state the authorized purposes of the strike or lock-out?

A. In some instances it does. In all instances the salient facts are presented to the Executive Council for their consideration and action. In other words, the information supplied to the president or his representative as to why the difficulty cannot be adjusted is presented to the Council and discloses the reasons for the strike or lock-out, as the case may be.

Q. Now, has he obtained such information in the case of strikes occurring by locals of the International Typographical Union since August 22, 1947?

A. Yes, in each case.

• • •

[3130] • • • Trial Examiner Leff: Well, let me ask you this, Mr. Sinsheimer: Are you contending in this case that strikes, where they have occurred since August 22nd formed part of the cause of conduct which you claim constituted unfair labor practices [3131] in this case?

Mr. Sinsheimer: So far I do not believe that we have introduced evidence with the exception of the Chicago situation with respect to any strike generally in the United States. We were not urging them as a course of deliberately designed conduct. If we had we would have introduced testimony as to more strikes.

• • •

Trial Examiner Leff: Of course, if you claim that the strikes that occurred in Chicago and Hammond— I think those are the two strikes of which we have any evidence in the record so far—are not to be deemed as unfair labor practices, either standing alone or in conjunction with other evidence in the case, then I agree with you that it is irrelevant. I should like an expression of your position on that.

Mr. Sinsheimer: Our position is that only those strikes in Chicago—and again I say that the record on it was the best [3132] evidence as to what caused that strike—was a part of the overall unfair labor practice there. As to whether the union engaged in a policy of causing strikes throughout the United States as part of its general pattern, we have not offered evidence on that.

Trial Examiner Leff: Let me be more specific. Are you contending, for example, that the strike in Chicago was a coercive technique used by the union as part of its attempt to coerce employers to violate Section 8 (a) (3) of the Act?

Mr. Sinsheimer: Oh, the strike is definitely a part of the activity carried on by this union, that is correct.

Trial Examiner Leff: In furtherance of that object?

Mr. Sinsheimer: I would say that the strike was to obtain a wage increase without a contract as part of its policy.

• • •

[3134] • • • Q. (By Mr. Van Arkel) Now, Mr. Randolph, will you tell us what strikes have occurred in the newspaper publishing industry since August 21, 1947, the stated

purposes of such strikes or lock-outs as they were reported to you, and the purposes for which the payment of strike or lock-out benefits were authorized in connection with each of those strikes?

A. The first one I have on the list here is in Nassau County, New York.

[3135] Trial Examiner Leff: May we also have, please, the date when the strike began?

The Witness: Yes. It began November 9, 1947, involving 33 members and was considered a lockout by us.

• • • •

The Witness: The benefits were authorized in Nassau County because of a matter of wages.

In Jamestown, New York, the date is December 2, 1947. The purpose of authorizing the benefits was a matter of wages.

• • •

[3136] • • • The Witness: At Allentown, Pennsylvania, December 4, 1947, the union was authorized to strike for wages.

At Chicago, Illinois, on November 24, 1947, the union was authorized to strike for a matter of wages.

At Norristown, Pennsylvania, December 7, 1947, the union was authorized to strike for a matter of wages.

Q. (By Mr. Van Arkel) Just to recapitulate a little, Mr. Randolph, how many persons were involved in the Jamestown, New York, matter?

A. There were 33 members involved.

Q. And at Allentown, Pennsylvania?

[3137] A. 79 members involved.

Q. Chicago, Illinois?

A. Approximately 1,500 members.

Q. What is the present status of those strikes or lock-outs?

A. Nassau County is operating on a non-union basis. Jamestown, New York, is operating on a non-union basis. Allentown, Pennsylvania, is operating on a non-union basis. Chicago, Illinois, is operating by virtue of a substitute process called Veritypers. The Norristown, Pennsylvania, one was settled with a wage increase. Our members were reemployed.

Trial Examiner Leff: When was it settled?

The Witness: A week or two after it started. It was settled on December 15, 1947.

Trial Examiner Leff: Was the contract signed when it was settled, do you?

The Witness: No, no contract was signed.

Abilene, Texas, December 9, 1947, involving 33 men; they were authorized to strike for wages. Abilene, Texas, is operating non-union now.

At Longview, Washington, a strike began December 29, 1947, involving 21 men. They were authorized to strike for wages and it was adjusted on January 2, 1948, with a wage increase.

Bartlesville, Oklahoma, a strike on December 9, 1947, involving 15 men. They were authorized to strike for wages and they are operating non-union at the present time.

[3138] There was one in Quincy, Massachusetts, but I don't have the date, involving 25 men. It is now operating non-union and they were authorized to strike for wages.

I can't give you the date of the start of the strike.

Q. (By Mr. Van Arkel) So far as you are aware, have there been any other strikes since August, Mr. Randolph?

A. There has been a lock-out in Columbus, Georgia, and I do not have the date on that.

• • •

[3139] • • • *Cross Examination.*

• • •

[3142] • • • Q. Now, you testified with respect to the inclusion of a [3143] loss clause in agreements, and that between 1901 and 1922 that was expressed in an arbitration agreement?

A. It was also so expressed.

Q. Now, after 1922 was that provision generally contained in the contracts between local unions and publishers?

A. It was contained in what was either expressly contained—or through the understanding reached between the Special Standing Committee of the ANPA and the Executive Council of the ATU whereby any contract mentioning the exemption of the laws from arbitration was accepted as the equivalent of a commitment to the operation of the laws of the year in which the contract was made for the life of the contract.

That understanding obtained until about 1944 or 1945 when it was first repudiated as such by the Detroit publishers in a meeting where our Executive Council was present. It was likewise repudiated by a meeting of employer representatives in Chicago. I can't say that it was any official conference of the ANPA, but it was carried on through the auspices of the Chairman of the Special Standing Committee of the ANPA, and at that meeting they adopted several points, and one of them was that all matters should be subject to collective bargaining and that the laws of the ITU should be subject to collective bargaining.

The union rejected that and from that time on insisted through specific references in contracts to the operation of ITU [3144] laws as the basis of union shop operation.

Q. In other words, since 1944 the union has insisted on a specific clause specifically including the ITU laws in every contract?

A. That is right.

Q. And between 1922 and 1941 there was no clause specifically including them, but there was a clause that they were not to be subject to arbitration, is that it?

A. There were a great many—I would say most of the contracts had specific clauses in them, but whether they did or not, among those that had arbitration agreements the exclusion of the laws from arbitration were sufficient, recognized as sufficient by both parties.

Q. In other words, the effect was that the operation was not contrary to the general laws, is that it?

A. That is right.

Q. The first time that the insistence was made that they be specifically incorporated was after you became president of the union, is that not right?

A. No, I wouldn't say that. The history, the tradition, the constant operation on that basis was—it is historic. It goes way back to the beginning. There never was a time when union laws was not the basis of union shop operation, but only when employers sought to change the condition was it necessary to insist that they put it in.

[3145] Q. Well, at the time that the insistence was made that they be specifically included in the year 1944, you were president of the union; is that right?

A. I became president in July, July 15, 1944.

Q. Was it before or after you became president that there was insistence that union laws be specifically included?

A. Well, I cannot testify as to what my predecessor did about it, so far as that is concerned, but I say that the spur given to specific coverage was given to us by the attitude of the employers who set out to get union laws out of contracts.

Q. But in any event you took the position in 1944 that they should be specifically included and have maintained that position and still maintain it, is that right?

A. We did that and still maintain it, with one exception. That exception is that the laws they agreed to be bound by are not in violation of any civil law.

Q. And is it still the position of the present union that those laws, the general laws, are not subject to negotiation or arbitration; is that right?

A. The general laws are part of the negotiation and the general laws, that is, not in conflict with civil law, are one of the items of negotiation and when an agreement is reached the agreement must, as one of the items, indicate compliance with those laws, not in conflict with federal law or state law.

Q. Well, will you negotiate with respect to the general laws?

[3146] A. Will we negotiate with respect to them?

Q. That is right.

A. It is one of the items of negotiation. We negotiate that the same as we do anything else. It is part of the contract.

Q. Is it not your position that as part of the contract there must now be included a provision that the general laws of the union not in conflict with law or this contract are applicable?

A. That is right.

Q. And in connection with that, have you permitted negotiation of any provisions in the contract which contained less than the general laws provided for?

A. We have not approved any contract that does not have that commitment.

Q. Well, my question is, have you approved any contract which, in any of its provisions, varied from the general laws in such a way as to provide for a situation less beneficial than the general laws provide?

A. We have not.

Q. In other words, you have insisted that the general laws provide a minimum basis for negotiation, is that right?

A. Under our laws the union must refer to the president of the ITU its proposal that it intends to offer employers. At the present time the president of the ITU will not approve any such proposal that does not carry that commitment.

After negotiations have been completed, the local union [3147] is obligated by law to submit to the president of the union for approval, before any contract is signed. The law is the same on that as it has been for a great many years.

If the Executive Council does not approve, the local union has no right to submit it to the union because it is not in conformity with our laws. Some have done it.

Q. However, the fact is that you have not approved any agreement which provided for less than the general laws, is that right?

A. We have not approved any agreement that does not have a specific provision therein to the effect that the general laws not in conflict—the general laws of that year not in conflict with law shall govern on matters not covered by the contract.

Trial Examiner Leff: What period does your question cover, since 1944?

Mr. Sinsheimer: My question is applicable to 1944.

Trial Examiner Leff: You so understand it, Mr. Randolph?

The Witness: No, I thought he meant for all time.

Q. (By Mr. Sinsheimer) Your answer has been for all time? In other words, at all times, and it has been the same since 1944, you have to have that clause in the contract?

A. No, that is not exactly so. It has been the case for a great many years that the local union must submit its proposals before presenting to the employer, and also must submit a negotiated agreement for approval to the Board after it is offered by the local union. That is what the law has provided [3148] for a great many years.

Now, in order to secure that approval as being in compliance with that law, the Executive Council and the president take the position that due to the attitude of the ANPA we must be specific on that point, more specific than we were before.

Q. My question now, Mr. Randolph, is this: Since 1944, have you approved of any contract submitted by a local union which varied from the general laws?

A. Now, you say varied. Any contract has a lot of provisions that are not covered by the general laws. On the specific provisions covered in the general laws that apply to certain circumstances, we don't approve contracts that are contrary to those specific provisions.

Q. In other words, you are saying that as to those matters which are covered by the general laws you had not approved contracts that have varied from the general laws?

A. Well, that have been contrary to them. There are some general laws that apply only to minimums and anything above the minimum wouldn't do. They can negotiate for a double price for overtime, for instance, or any other account, but it has to be a minimum of time and a half. They can negotiate for any number of hours below eight per day, but there must not be more than eight per day. Do you see what I mean?

Q. In other words, they can negotiate for changes in the general laws which are more favorable to the union, but they [3149] cannot negotiate for those which would be less favorable than those set forth in the general laws, is that not right?

A. No, they don't negotiate for changes in the general laws. They negotiate for conditions outlined in the general laws, some of which are indefinite, some of which are minimums, some of which are maximums, but the general laws outlined the maximum of hours per week that a member may work at straight time.

Contracts have to be made that will take that into consideration. The contracts must specify a ratio of apprentices to journeymen which, as a maximum, is mentioned in the book of laws. Most of the contracts have been negotiated with less than the maximum. And so on through the general laws.

The apprentices must be taken care of by contract under the general procedure mentioned in the general laws. In other words, it is a guide for the making of agreements and the screening of the proposals of contracts at headquarters is for the purpose of seeing that the proposal is in compliance with and not contrary to our general laws.

Q. Where the general laws provided for a minimum,

there may not be negotiation for less than that minimum, is that right?

A. There may not be an approved contract for less.

Q. And where the general laws provide for a maximum, there may not be approved a contract for anything in excess of that maximum, is that right?

A. That is right.

[3150] Q. No, with respect to other matters in the general laws, will you approve a contract which involves any variance from those conditions provided by the general laws?

A. No, nothing greater than the maximum or nothing below the minimum, if that is what you mean when you use the word "variance".

* * *

[3151] * * * Q. Now, you testified that the International did not underwrite agreements. What did the International do with respect to agreements prior to August 27?

A. The practice of approving agreements as being in compliance with our law was strictly an internal matter, and it still is, as a legal obligation. It is only an International matter to apply to the relationship of the local union and the ITU. Over the course of the years discipline that the International Union exercised over its local unions to see that they lived up to their agreements was considered a desirable thing and a valuable thing to employers. The fact that the International Union did not consider an agreement valid unless it was an approved agreement made it desirable to have an approved agreement.

As the years went on there was further desire on the part of the employers to have a commitment that the International [3152] Union would see to it that the local union lived up to the agreement. At one time one of the presidents—I couldn't testify as to which, but I believe it was my predecessor—had some language using the word "underwriter", and when I took office I immediately changed that because the authority of the International President to underwrite an agreement did not exist in our book of laws.

In order to satisfy some who had felt rather deprived of something by the change in approving clause, I wrote as broad a coverage as I thought our laws would stand for and with legal advice I used an approval clause that would pledge the International Union to exercise its full authority

to see that the local union lived up to those obligations as specified in an approved contract. That approval clause was submitted to our Executive Council and as president I was authorized to use that clause.

However, since the Taft-Hartley has been adopted which has, as far as we can see, changed the basis of collective bargaining, injected more responsibilities and characterized union agreements as contracts, the International Union does not undertake to guarantee anything with regard to the contract. The reputation of the ITU, the stability, its desire to maintain and continue the reputation it has for living up to agreements, is still a valuable thing.

Q. Now, you did have a clause, then, in the past several years since you have been president, which in effect pledged that the [3153] International would use its authority to see that the conditions agreed to by the local and the publisher were lived up to, is that right?

A. That is right.

Q. You have not attached any such clause to any agreement, proposals or contract entered into since August 22, 1947, is that right?

A. I think that is right. I delegate that responsibility to our contract department, and I hope they have not. They are under instructions not to.

Q. In other words, Form P-6-A contains no such approval clause?

A. That is right. It does not contain the approval clause that I had been accustomed to using and some of them may have another approval clause on them as to—between the union and the local union. That is, the local union would be advised, "This is approved," but that doesn't attach itself to any responsibility we may owe in the matter.

Q. That is merely between you and the local?

A. That is right. The necessity for that, as I see it, is because every agreement that is made now, it being a legal contract, has a report on the end of it and we don't know what kind of an interpretation might be made as to financial responsibilities and while the right to sue a local union may result in very little recovery from the treasury of the union, which may not have very much, if the ITU is to be sued as a party to a [3154] local contract we might have our pension and other funds dissipated through lawsuits.

* * *

[3157] * * * Q. The laws of the ITU require that the local unions insist upon a reproduction division in their contracts, isn't that right?

A. I don't think the law specifically says that. The law provides what shall be reproduced and it has been the desire of the publishers to have a more specific contract provision [3158] in their contract rather than rely on the law itself. There have been quite a number of reproduction clauses that were considered to be in compliance with that. There are quite a number of different ways of expressing it, some being more particularly specific on certain points.

Mr. Hanson: Mr. Examiner, I move to strike his answer about the desire of the publishers. I should the publishers should speak on that question themselves, rather than this witness. His testimony this morning was that he had no personal experience with it since 1923.

Trial Examiner Leff: Have you negotiated with publishers on the reproduction clause?

The Witness: Oh, yes, I have, many times. Mr. Hanson is mistaken.

Trial Examiner Leff: Never mind about that. The motion to strike is denied. The answer will stand.

Q. (By Mr. Sinsheimer) It is a fact, is it not, Mr. Randolph, that section 2 of Article 9 of the general laws makes it unlawful for there to be the interchange, exchange, borrowing or lending of certain types of matrices between newspapers, between job offices, and so forth, unless they reset as nearly like the original as possible.

A. Well, whatever you have been reading there out of the book, that is it.

Q. Now, sir, doesn't that mean that the local union in order [3159] to have an approved contract must insist upon a provision covering such work within the terms of the general contract?

A. Within the terms would simply mean this, that another section provides the local unions may establish in contracts a period of time during which this reproduction is to take place. Now, a contract excepting the laws that has provision for the period during which reproduction was to be had could rely on the law's amendments and the operation of the law itself rather than a more specific contract provision.

Q. But either by a specific contract provision or by inclusion of the general laws, the local union must have a provision dealing with those matters which are subject to reproduction, is that not right?

A. Must have a contract provision during which time—or in which the time is specified for reproduction. That is the obligation, to do that. Now, I have repeatedly worked on reproduction sections at the request of employers with negotiations to be more specific as to exactly what is covered. We have worked out such clauses.

Q. Well, would you approve of a local union agreement which did not contain a reproduction clause or which exempted reproduction from the operation of the general laws?

A. I would certainly not approve of one that exempted reproduction.

Q. Now, you testified that most of this reproduction was a [3160] matter that was distributed among the newspapers, and not matter coming from the job shops, is that right?

A. That is right.

Q. Now, that is not the situation in Chicago, is it?

A. Well, we have no situation in Chicago now.

Q. I am referring to what the situation was in Chicago prior to the strike last November.

A. That is right.

Q. That is, most of the reproduction in Chicago was of material that came from job shops to the newspapers in recent years.

A. No, no. Almost none of them.

Q. Well, have you been personally acquainted with the reproduction coming to the Chicago newspapers in the past few years?

A. Yes, I am.

Q. And would it be any surprise to you if you were told that I think without exception the witnesses at Chicago stated that reproduction there was primarily work from the job shops to the newspapers.

A. Well, I am sure that that is not so and I am sure that you are mistaken.

Q. Well, anyway, that is my opinion.

Have you personally observed any of the matter that was reproduced in the Chicago newspapers in the last five years?

[3161] A. No, but I personally participated in writing the reproduction section in the Chicago contract two years ago.

Q. And about that time two or three years ago there was a change in the language, was there not?

A. There was a change in the language at the time I helped negotiate it, yes.

Q. That was with respect to the words "previously used"?

A. That is right.

Q. And that was changed, was it not, to make clear that the work in agreement with the union job shop was to be reproduced in a newspaper office?

A. No, it applied only to one series of ads that were being set up in—and local ads at that—that were being set up in Chicago in a job shop and used in the newspapers. If the ad was used, for instance, in the Tribune first and a mat sent over to the other papers, the other papers would have to reproduce it. But the first paper getting it from the job shop would not. The ad was Marshall Field's. He wanted some extra good composition and he paid for that by getting it in an advertising agency.

Now, in between several other papers reproducing it at the local advertisement, if set in the Tribune or if set in this other shop, there was no difference, but the first ones who got it got a free ad. Of course, over the years the use of the words "previously used" was a matter of controversy [3162] with the publishers who thought that was an out to prevent them reproducing one, assuming they all used the ad the same night. It hadn't been previously used until they all got it in the paper.

So it was just a matter of quibbling and the convention took out the words "previously used" when that matter was brought to their attention.

So it made no difference whatever in the vast practices, with the exception of one ad and I doubt that any other city in the country has had any such experience whereby a local concern would have a local job shop set an ad rather than have the local newspapers set it.

That just happened to be one ad, one department store that wanted better type faces and so on than they could get out of a newspaper office.

Q. Is it your testimony that there is only one advertisement in Chicago that goes to Chicago job shops and then has the newspaper publish that?

A. One local advertiser. There is a large number of commercial offices specializing in advertising agency work. It is almost 100 per cent, if not that, national advertising that is not subject to reproduction at all.

Q. Now, in recent years you have had a dispute about what constituted national or local advertising, have you not?

A. No, there has been over the years always a matter of local [3163] unions and local publishers questioning which is which and because of that many contracts have more specifically set out in them just what the local advertisement is.

Q. Haven't there been several occasions of controversies which developed in local arbitration to develop what was a local ad and what was a national ad?

A. There have been arbitrations under the terms of the contract to determine which of the two classifications a certain ad might fall into, yes. There has been that.

Q. And is it not also true that the union has taken the position that ads of national manufacturers referring to local firms are localized?

A. That which?

Q. That advertisements of national manufacturers naming local firms in the course of those advertisements?

A. Well, I can't say that that is a fact. Many contracts have a provision that the mere addition of a name and address to a national ad doesn't change its characterization as a national ad.

Q. Hasn't the International or the Union generally sought to contend that it does change that?

A. The International has not been involved in that problem. That has been a problem as between the local union and the local publisher, a matter of interpreting words that are used in the contract.

[3164] Q. Approximately how much of the advertising which comes into a newspaper, in your opinion, is reproduced?

A. I would not be able to say.

• • •

Q. (By Mr. Sinsheimer) Mr. Randolph, since you have been president of the ITU, has any local union submitted a contract which did not contain any provision respecting reproduction and which exempted it from the operation of the general laws?

A. I think so. The contract department screens those things without my attention and I would say that those contracts had been submitted, but have not been approved, if so submitted.

Q. Do you know how many such have been submitted?

A. No.

Q. You can't recall any one specifically, is that right?

A. No, I couldn't recall one.

Q. Now, with respect to the Chicago substitute process of getting out a newspaper, do you consider the newspapers that are turned out under that process to be as satisfactory as newspapers so turned out in the normal course through the composing room?

A. No, I don't.

Mr. Hanson: Satisfactory to whom?

Mr. Sinsheimer: I have asked Mr. Randolph's opinion as [3165] to whether he considers the paper to be as satisfactory.

Trial Examiner Leff: He answered that he did not. I will let the answer stand.

Q. (By Mr. Sinsheimer) Now, in what respects do you consider it to be less satisfactory?

A. Well, in the first place they don't use our members to produce the paper. The second place, it is very unsatisfactory to me to try to read one of them.

Trial Examiner Leff: Do you buy them?

The Witness: No. I have some union members who send in the interesting items out of the Chicago Tribune, and of course the procedure is not new. We have been introduced to that a number of times over the years. They followed that method for some three months in San Antonion and there have been other places where they have used it as a stopgap or as a strikebreaking method. It is, if I may say so, wholly unsatisfactory to us from every angle you can think of.

Q. (By Mr. Sinsheimer) On what other specific points do you consider newspapers produced under the varitypewriter substitute to be unsatisfactory?

A. In what other respects? When you say satisfactory again, I will join Mr. Hanson in saying to whom? I have given you our angle as we see it. Whether it is satisfactory from a cost standpoint or whether it is satisfactory by way of the general public thinks of it, those are matters that I can only give you [3166] a guess on.

Q. Well, at any rate, do you consider it to be less satisfactory to you than the ordinary newspaper?

Mr. Van Arkel: I object to this line, Mr. Examiner. I cannot see any conceivable relevancy.

Trial Examiner Leff: I do not, either. Do you, Mr. Sinsheimer?

Mr. Hanson: I will join Mr. Van Arkel, Mr. Examiner.

Mr. Sinsheimer: I think if I ask another question the relevancy will be shown.

Trial Examiner Leff: Very well, ask the other question.

Q. (By Mr. Sinsheimer) If the paper is less satisfactory, Mr. Randolph, is it really a competitor of the composing room?

A. Anything that displaces our people is a competitor. Anything that decreases the opportunity for employment is a competitor. The radio is a competitor.

Q. How long does it take to train a person to operate a teletype setter?

A. We are making contracts providing for a training period of a year. That amount of time would equip one to turn out a fair product in quantity and contracts will provide for a graduated scale with the journeymen scale prevailing over the year.

Q. For an individual ordinarily to become a journeyman in your union requires a six-year period, does it not? [3167] A. That is right.

Q. So that a person to be qualified as a teletype setter would require considerably less training than people have been required to have to become journeyman printers in the typographical union?

A. As regards their final competency and worth, I am not prepared to say that they can develop into what they ought to within a year. We have contract provisions that require the training of apprentices on linotype machines during that last year of theirs, and it may be that some of them become competent operators during

that year or they may not, but that is the period of training that we require on the keyboard.

There are other things that the teletype punchers may be required to learn and become more valuable as employees in a newspaper office.

Q. Is it your opinion that an individual can be trained to perform an operation in two months or six months and would ordinarily be entitled to the same pay as an individual who takes five or six years to learn a trade or profession?

A. That all goes to the question of splitting the industry up into separate operations which, if it could be done, might result in a different industry entirely. We have been successful over the years in requiring a general training that would equip a man to perform a number of operations in the composition room, making, of course, a more mobile setup, but there [3168] is a general tendency to try in the industry to arrange it more in the line of specialists.

A man may learn the trade and be a good operator and the employer may keep him on operating the machine for year after year without making use of his other training. If an employer is going to inject the splitting up principle, I don't know where the end is. We are trying to maintain the industry on a basis of a skilled craft and the training of the craftsmen in several operations of the industry. It is just a matter of time, but the matter of time alone is not all important. It is the matter of the possibilities in this situation.

A teletype tape puncher may be used in other ways. We have had them for a number years in Decatur, Illinois, where our members are trained on the machines. We had them in Chicago where our members were trained on the machines. That is the introduction of just one more machine.

The whole history of the industry shows that as these new machines were introduced our members were trained to operate them. That was so when the linotype came in. Our members were trained to operate the linotype machines. It has been that way all the way through.

So when you say one can be trained to operate the teletype tape puncher only, I point out that they can also be trained to operate the linotype machine only, but we don't train them in that way in the union.

[3169] They are trained thoroughly in their own trade, and we try to keep it that way.

If the employer insists on introducing a machine and trying to cheapen the industry, you can be assured, the union is going to try to keep him from doing that. We want to keep the industry intact, and we want it to pay journeymen wages for the journeymen people.

* * *

[3173] * * * Q. (By Mr. Sinsheimer) Mr. Randolph, I believe you stated that in your opinion the introduction of bogus among other things results in less sporadic employment. Will you state in what manner that comes about?

A. Well, the matrix of an ad coming from another newspaper is reproducible within a certain number of days after it is used, and it is naturally reproduced on the days when the volume of work is less, and that gives a more even production record, more even employment.

Q. What you are saying, isn't it, is that it is scheduled to be reproduced at a time that can be worked in by the publisher, isn't that what it amounts to?

A. That's right, within a certain period of time specified in the contract.

Q. But what the publisher then has to do is to attempt to work out some schedule by which he can work that in sometime or other, isn't that what occurs?

A. That's what occurs, yes, he works it in as it is [3174] convenient in the plant, within the period specified in the contract.

* * *

[3175] * * * Q. I will call your attention, Mr. Randolph, to Page 19 of the January issue of the Typographical Journal. That is Page 19 of what purports to be the January issue of the [3176] Typographical Journal, and ask you if the statements contained on that page were prepared and written by you?

A. On Page 19, you say?

Q. That's right.

A. That is an article I prepared for a radio talk in Newark, New Jersey, and reprinted in the journal. The date was—I can't give you the date, but it was some time before this.

Q. That is, some time prior?

A. Last fall, some time. The closing date for this would be December 20th, so it was prior to December the 20th when it was delivered over the air in Newark, New Jersey.

Q. It appeared in that issue of the Journal, and that is an official issue of the Typographical Journal, is it not?

A. That's right.

Q. When was that issue distributed?

A. The publication date is January 5. It was distributed some time around the middle of January.

Q. That is January, 1948?

A. That's right.

Q. That was distributed to all of the local unions?

A. That's right, all of the members of the I.T.U.

Q. Not only to all local unions, but to all members of the I.T.U.?

[3177] A. Yes, each member who keeps his address current, receives this journal. It is not sent officially to local unions. It is mailed to each member. It is a part of each member's right to get it by law.

Q. Isn't it also sent to the local unions?

A. No, sent to each member.

Mr. Sinsheimer: I will offer Pages 19 and 20 of the January issue of the Typographical Journal, and ask that they be marked—

Trial Examiner Leff: (Interposing) January, 1948.

Mr. Sinsheimer: And ask that they be marked as Board's Exhibit 82 for identification.

(Thereupon the document above referred to was marked Board's Exhibit 82 for identification.)

Mr. Van Arkel: I am amazed to find there is something not yet in the record. No objection, except on the grounds previously stated with respect to internal union communications, views, arguments, and opinions, which apply to all of this.

* * *

[3178] * * * (Whereupon, the document marked Board's Exhibit 82 was received in evidence.)

Q. (By Mr. Sinsheimer) Mr. Randolph, the I.T.U. has a pension, a mortuary fund, has it not?

A. Yes, it has.

Q. Now, how many years has it had such a pension and mortuary fund?

A. Pension fund, the law governing pensions adopted in 1912, mortuary benefits in 1909.

Q. When did they go into effect?

A. In those years.

Q. At the present time the pension fund has in it in excess of five million dollars, does it not?

A. Approximately. I haven't kept up with the exact amount, but it is somewhere near.

Q. And the mortuary fund also has in it approximately how much?

A. Well, around, at this time I don't know. We have had to transfer over a million dollars from the fund to other purposes. I imagine it's got about a million and a half in it.

[3179] Q. And normally how much would it have in it?

A. About two and a half.

Q. Two and a half million?

A. Yes.

Q. What qualifications do members have to have before they can receive a pension from the I.T.U.?

A. They have to be sixty years of age, and be unable to continue in or secure sustaining employment. They have to have twenty-five years' continuance membership in the union?

Q. Approximately what pension payments are made?

A. Fourteen dollars a week.

Q. That's the exact figure?

A. Yes.

Q. And that is paid over the remainder of their life?

A. Yes.

Q. That is, after they become eligible to receive a pension?

A. That's right.

Q. What are the requirements for receiving a mortuary benefit?

A. It is a graduated mortuary benefit, based on the length of membership.

Q. What is the rate?

A. Seventy-five to five hundred dollars.

Q. From seventy-five to five hundred dollars?

[3180] A. Yes.

Q. In the beginning, that is, to receive seventy-five dollars, how long a membership is required?

A. Oh, a few minutes.

Q. In other words, some one who has been admitted to membership is eligible for a seventy-five dollar mortuary benefit?

A. Yes.

Q. To receive five hundred dollars, how many years?

A. I think it is fifteen years.

Q. Does that requirement of fifteen years have to be continuous membership?

A. Yes.

Q. In other words, to receive a pension, does the individual have to be a member in good standing at the time he applies for it?

A. Yes.

Q. And in order to receive mortuary benefits, must the member, at the time of that, be a member in good standing?

A. Yes.

Q. If an individual membership in the union should be terminated by the union—in other words, if he should be expelled by the organization, would he lose all rights in the pension fund?

A. Yes.

[3181] Q. Would such an individual lose all of his rights in the mortuary fund?

A. Yes.

Q. Would such an individual who was expelled from the union receive any refund of any money that he had paid into the pension fund?

A. No.

Q. Would an individual who was expelled from the union receive any refund of money paid into the mortuary fund?

A. No.

Q. Would the same thing be true if the individual were suspended during any particular period? Would he be eligible for a pension?

A. No, he has to be a member in good standing to receive a pension.

Q. And the same would be true if he were suspended at the time of death, the family would not be eligible for mortuary benefit?

A. That's right.

• • •

[3182] * * * Q. (By Mr. Sinsheimer:) Can suspension at any time interfere with continuous service?

A. What do you mean, continuous service?

Q. I believe you testified that there must be twenty-five years' continuous service.

A. No, membership.

Q. That's right, continuous membership. Would suspension interfere with continuous membership?

A. It depends on the length of time that a member remains suspended. In other words, if a member is suspended for non-payment of dues, and he doesn't work at the printing trade in the meantime, he can reinstate himself within one year of the time that he was suspended, by paying up back dues, and he reinstated in his continuous membership.

Mr. Sinsheimer: May I have that last answer read, please?

(Answer read.)

Q. (By Mr. Sinsheimer:) What about suspensions for reasons [3183] other than non-payment of dues?

A. That's covered by the book of laws that is in evidence, and, as I recall the provision, and I refer you to the book, a provision as to suspension through the charges and trials procedure, wherein a local union charges a member with some dereliction, and after due trial, may suspend him, the suspension must be for a particular period of time, and the only effect of it is to prevent him from working at the trade during that time.

However, the suspension or expulsion inflicted by local unions through the procedure of charges and trials may only become effective as regards those two punishments after appeal to an Executive Council, if the member desires to take it.

The desire of the Executive Council, then, if it upholds the suspension or expulsion inflicted by a local union, stands, unless reversed by the Convention.

The decision of the Executive Council is necessary to put into effect any suspension or expulsion by a local union.

Q. If the Executive Council refuses to put that into effect, is that period of suspension counted against the member's continuous membership or not?

A. No, as I say, those two penalties must have the ap-

proval of the Executive Council before they are effective. [3184] Q. If the Executive Council revokes the charter of a local union, does that affect the members' continuous good standing status?

A. It hasn't, to my knowledge. I know of no case where a suspension of a charter affected the membership of the members of that union. They simply take traveling cards, and work as though they were working in the place where there has been no union charter, paying dues directly to the I.T.U.

Q. What is the method of expulsion of members? Will you describe that?

A. The book of laws sets it out. I am only speaking from memory.

Q. Will you refer to the book of laws, Mr. Randolph?

A. The law governing charges, trials, and appeals begins on Page 23, and ends on Page 31. It is Article 4 of the by-laws. That is the procedure whereby members of local unions are charged and tried, and under which they may appeal to the Executive Council.

There are other provisions throughout the book which provide for action directly by the Executive Council for certain activities on the part of local officials or local members. I can't at this time direct your attention to them. I can't point out where they are.

Q. Are the provisions set forth in Article 4 of the by-laws [3185] with respect to charges, trial, and appeals, carried out in practice?

A. Certainly they are.

Q. And are the other provisions which you referred to with respect to matters that the Executive Council may handle directly also carried out in practice?

A. They are, yes.

Q. What are those matters that the Executive Council may directly take up with individual members?

A. I can't point them out to you now. There are four or five instances through the book where that is provided.

Q. What kind of matters?

A. Well, there is direct action possible by the Executive Council where local unions or members refuse to obey a decision of the Executive Council.

There is direct action possible against an absconding secretary-treasurer of a local union.

There is direct action possible where members engage in dual unionism.

Q. One of those provisions is listed as Section 42 of Article 4 of the by-laws, is it not?

A. Yes.

Q. What is the status of members where the charter of the local union has been revoked?

[3186] A. Under any cases that have come to my attention in the past twenty years, the members were supplied with traveling cards by the local secretary-treasurer, and they paid dues direct to the international union.

Q. How would the matter of their expulsion for non-payment of dues be handled?

A. They are not expelled for non-payment of dues. They are suspended for non-payment of dues. That is automatic at the end of four months of delinquency.

Q. How would the matter of their expulsion on other matters be handled?

A. Expulsion is handled either through charges and trials, through local procedure, or through direct expulsion by the Executive Council, under certain circumstances.

Q. Would that be one circumstance where the Executive Council would necessarily handle the matter of expulsion, that is, where the local's charter has been revoked, and they are not members of any local?

A. Well, there's never been, to my knowledge, any instance where Executive Council has expelled anybody who was not a member of a local union. They work in what we call an organized territory. No local union has jurisdiction over them. There is no charges and trials procedure possible where there is no local union, but if a member working in an unorganized territory engaged in the things that come under [3187] that provision where the Executive Council could expel them, why, it could be done, but so far as I know, it has never occurred.

* * *

Q. (By Mr. Sinsheimer:) Mr. Randolph, as part of the international union's policy, the union insists, does it not, that foremen of composing rooms be members of the international [3188] union?

* * *

The Witness: You are thinking now about the policy of the union which was adopted at the Convention?

Q. (By Mr. Sinsheimer:) The policy of the union, not only at the Convention, but generally the policy of the union.

A. Well, I will tell you. Prior to the Taft-Hartley Law, it was an unvarying rule and policy. Now we are, in our policy, plainly stating that we intend to comply fully with all laws, and if there is any legal bar to foremen being members of the union, we respect it. So far, we haven't discovered any, and we are making agreements whereby the employer agrees to hire union foremen.

Q. Would you permit a local union to enter into an agreement, or would you approve any local union agreement with a publisher, that provided that the publisher could hire a non-union foreman?

A. Well, we will not approve such an agreement so long as we are assured that it's a legal act.

Trial Examiner Leff: Has any such agreement been [3189] submitted to you since August 22?

The Witness: Providing for union foremen?

Trial Examiner Leff: Which did not provide that, made no provision about union foremen?

The Witness: No there has been no such agreement.

Trial Examiner Leff: Has any employer, to your knowledge, since August 22, taken the position that he would not, he did not want his foremen to be members of the union?

The Witness: I have heard of no such case.

• • •

Q. (By Mr. Sinsheimer:) Mr. Randolph, what did you mean by the words, "so long as we are assured that it's a legal act"?

A. It's a legal act, the requesting of a union foreman. A legal act, in other words, we are anxious to secure all [3190] of the protection we can in a contract for union security, and we conceive that a union foreman is a measure of union security.

Q. At the present time, then, you are being assured by your legal counsel that it is a legal act, that is, it is legal to insist upon, to insist that union foremen be hired, is that right?

A. That's right, that is, it's legal for us to make collective bargaining agreements with that provision in them. We are doing that, we are making collective bargaining agreements with the provision specifying that the foreman should be a member of the union.

* * *

[3197] * * * Q. (By Mr. Sinsheimer:) You testified that you had a certain number of P-6-a contracts which were approved?

A. That's right.

Q. All right, now, do those contracts cover the subject of union foremen?

A. They are not mentioned. The question of union foremen is not mentioned in P-6-a.

Q. The laws of the international union are mentioned in P-6-a.

A. The laws of the international union not in conflict with the law, are agreed to by the employer.

Q. And these laws provide for the employment of union foremen, do they not?

A. They apply to all work in the composing room to be done by members of the union, and to the extent that that they are in violation of the law, they don't apply.

Q. Is it, or is it not, the position of the International Typographical Union that P-6-a contracts require employment of union foremen?

* * *

[3198] * * * The Witness: I would say that it does not. It doesn't require the employment of union people at all.

Q. (By Mr. Sinsheimer:) Referring to Section 20 of Article 5 of the general laws in the 1948 laws of the International Typographical Union, that provision provides, does it not, that all persons performing the work of foremen or journeymen at any branch of the printing trade in offices under the jurisdiction of the International Typographical Union must be active members of the local union of their craft, and entitled to all the privileges and benefits of membership?

A. If you are reading the section, that's what it says.

Q. Is it the position of the International Typographical Union that that provision of the general laws is excluded from clause (c) of the P-6-a agreement?

A. I would say that any section, as well as that one, but any section of the book of laws that is in conflict with the law is not operative.

Q. Is it the position of the International Typographical Union that Section 10 of Article 5 of the general laws is [3199] in conflict with the law?

A. Section 10, Article 5?

Q. Yes, of the general laws.

A. It is on the belief that Section 10, Article 5, is contrary to the Taft-Hartley Law, that we have prepared the P-6-a agreement in the language we have.

• • •

Q. (By Mr. Sinsheimer:) In other words, it is then your position, the position of the International Typographical Union, that it cannot insist that union foremen be hired?

A. It is our position that we cannot prevent the employer from hiring non-union people. We haven't attempted to do so, whether for journeymen or foremen.

Q. Specifically with respect to foremen, is it the union's position that it cannot require that the employers employ union foremen?

• • •

[3205] • • • Q. (By Mr. Sinsheimer:) The question is, would it be considered a violation of a P-6-a contract if an employer party to such a contract hired a non-union foreman?

A. Do you want my opinion on it?

Q. Yes.

A. I don't think so.

• • •

[3206] • • • Q. (By Mr. Sinsheimer:) In the preparation of the drafting of P-6-a, Mr. Randolph, was it intended that the sixty-day notice should be used if an employer hired a non-union foreman?

A. It was only intended that the unions that engaged in collective bargaining with employers have an opportunity to cancel the contract whenever conditions existed that were not satisfactory to them. These conditions were not specified, and it was the intent of th. Executive Council in preparing that form to assist the local unions in finding a way to protect themselves in any way they could.

Q. What were the conditions that were contemplated at the time that provision was inserted in P-6-a?

A. We didn't contemplate any specific provisions. We contemplated an escape clause that would permit a local union to cancel a contract for any purpose whatsoever, give the employer the same opportunity, on sixty-day notice, any reason whatsoever. That is an all-inclusive [3207] opportunity to cancel the contract by either side on sixty days' notice.

* * *

[3209] Q. I believe this morning you stated that in your opinion, section 10 of Article V of the general laws, which appears at page 109 of the Book of Laws for 1948, is illegal.

A. I testified to that effect.

Q. What particular law or provision of law in your opinion does that violate?

A. Well, if we insisted upon all the foremen and journeymen being union men, it might be held by at least the attorneys for the Board, that that was illegal, and we are not insisting on the employer hiring only union men.

Q. I am now asking you about union foremen, not union men.

A. Well, we don't differentiate between union men and union foremen, except insofar as we may have the right to contract for foremen and we might not have the right to contract for union men and journeymen.

* * * *

[3211] * * * Q. You have already testified that you were advised by counsel that you could have a contract providing for the hiring of union foremen?

A. I did testify that we could have a contract covering union foremen. I didn't say "insist".

Q. And there is nothing illegal in that?

A. There is not.

* * *

[3235] * * * Trial Examiner Leff: Board's Exhibit 83 is admitted.

(Document heretofore marked Board's Exhibit No. 83 for identification, was received in evidence.)

* * *

[3237] * * * (Document referred to was marked Board's Exhibit No. 85 for identification.)

Q. (By Mr. Sinsheimer) I show you what has been marked Board's Exhibit 85, Mr. Randolph, and ask you if that is an exact copy of a document prepared by the International Typographical Union?

A. It is.

Q. And was that sent out to all of the local unions?

A. All of the local unions, in the United States.

Q. About what date?

A. I can't say. It was early in April.

Q. Early in April 1948?

A. Right.

Mr. Sinsheimer: I offer Board's Exhibit 85.

* * *

[3238] * * * Trial Examiner Leff: Objection overruled. Board's Exhibit 85 is admitted.

* * *

[3243] * * * Q. (By Mr. Sinsheimer) Mr. Randolph, is the ITU policy the same throughout the entire United States, including its territories?

A. Yes.

Q. Has there been any deviation from the policy adopted by the August 22—adopted by the convention in August 1947 by any local union?

A. Yes, there has.

Q. How many such cases?

A. Well, I can't tell you right off. There have been a number of them.

Q. What ones can you name?

A. Akron, Ohio, San Francisco, California, in the commercial field as indicated by the exhibits already in evidence.

Q. That is, San Francisco is indicated by the exhibits?

A. Yes.

Q. There are no exhibits with respect to Akron.

A. That is right.

Q. What other deviations that you can name?

A. Well, those we considered were specific deviations. There are others where there has been an exchange of letters which may or may not have amounted to a contract and may or may not therefore be deviations.

Q. How many such instances are there?

A. Well, I know of only one.

Q. Where was that?

A. That was Miami, Florida, and I am not sure as to the letters there because there is a controversy as to whether they did or did not write a letter, or whether they wrote one or two letters. So, as I say, I don't know exactly what happened there. But I think there was this exchange of letters that were considered outside of the policy by us. What their legal significance is I am not prepared to say.

Q. Do you know of any other deviations by local unions from the policy adopted at the ITU convention in August 1947?

A. I think there was one by the Newark, New Jersey union. There may have been others. I don't know. I have not followed that closely in the contract department.

Q. You can't recall at the present time any other deviations?

A. Those are all I recall.

Q. Otherwise, then, to the best of your knowledge the policy has been followed by the remaining local unions throughout the United States and its territories?

A. When you refer to the policy adopted at the convention, I want to point out to you that that policy is one that is interpreted and enforced by the executive council within the law of the land and is subject to change and has been changed [3245] on the necessity of the occasion.

Q. My question is: to the best of your knowledge has that policy as interpreted by the executive council been followed by all local unions other than those you have named?

A. As far as I know, yes.

Q. Then so far as you know, there was no deviation from that policy of the union at Abilene, Texas?

A. So far as I know, there is no deviation.

Q. Was there any deviation by the local at Bartonsville, Oklahoma?

A. Not to my knowledge.

Q. Was there any deviation by the local at Columbus, Georgia?

A. No, there wasn't.

Q. Was there any deviation by the local at Allen-

town, Pennsylvania?

A. No.

Q. Was there any deviation by the local at Norristown?

A. I don't know. I have heard various stories about Norristown. I don't know what the facts are and have been unable to get them.

Q. Was there any deviation by the local at Rockville Center, Long Island?

A. No.

Q. Was there any deviation by the local at Jamestown?

A. No.

[3246] Q. Was there any deviation by the local at Longview?

A. No.

Q. Was there any deviation by the local at Chicago?

A. No.

Q. Was there any deviation by the local at Hammond?

A. No.

• • •

[3247] • • • Q. (By Mr. Sinsheimer) Between August 22 and March 27, that is, August 22, 1947 and March 27, 1948, did the International Typographical Union receive any contracts or contract proposals from local unions providing for a definite term?

A. Yes, it did.

Q. Where was that?

A. Akron, Ohio.

Q. That is the commercial printing?

A. Yes.

Q. And what was the term?

A. I think it was two years.

Q. Was that approved by the executive council?

A. No, it was not.

Q. For what reason was it not approved by the council?

A. I don't recall what the reasons were. There were several.

Q. Was the definite term one reason?

A. It did not have a 60-day cancellation clause in it.

Q. That is, the fact that it did not have a 60-day cancellation clause was one of the reasons why you would not approve the Akron agreement, is that right?

A. That is right.

Q. Was it the policy of the union not to approve any [3248] agreement that did not contain a 60-day cancellation clause?

A. You say was it the policy not to approve a contract unless it had a 60-day cancellation clause in it?

Q. That is right.

A. That is right.

* * *

[3249] * * * Q. (By Mr. Sinsheimer) As a matter of fact, there was an election at Louisville in which the International Mailers Union's [3250] subsidiary subordinate union won the election and was certified by the Board. Do you know whether or not members of the International Typographical Union, that is, the local mailers union continued to work at the Louisville Courier?

A. Our members are still working there, yes.

Q. And that is true even though your union is not the bargaining agent?

A. That is right.

* * *

[3267] Q. (By Mr. Diamond) Is the practice of the International to grant strike sanction to a local union which is a party to a contract which has not been approved by the ITU president?

A. I don't quite understand your question.

Q. Well, suppose a local union is party to a contract with an employer which you have not approved and the union thereafter determined to strike because of a violation of the contract by the employer.

Can it get strike sanction from the ITU?

A. Well, in the first place we don't recognize any contract that has not been approved by the ITU. We don't recognize that it is a valid and binding document. We have no responsibility with reference thereto.

Q. So you wouldn't pay strike benefits in connection with such a strike?

A. I wouldn't say we would or wouldn't. That is an internal matter that would have to be settled when the question arose if and when it did.

* * *

[3269] Trial Examiner Leff: I would like to as a question.

Between the time your collective bargaining policy was formulated at the August convention in 1947, and the date of the injunction decree, did you ever alter the policy except with respect to the P-6-A form?

The Witness: I think that was the only thing we did to keep the policy within compliance of the general counsel. From the beginning—it is in the policy itself—we provide that any contract entered into has to be approved by the executive council. We also had the policy of not having any contract negotiating on the wages and conditions and using the conditions of employment to bring them about, that is, to make them positive and operative. The action of the general counsel in claiming that that was illegal caused us, then, to provide a means whereby unions could make a contract that would be approved by executive council and P-6-A was that outline of sections that we would approve.

Trial Examiner Leff: Did you consider the P-6-A form to be a substitution for the conditions of employment?

The Witness: No. An alternate method.

Trial Examiner Leff: Was that the only respect in which the collective bargaining policy was altered during the period I indicated, that is, from the time of the August convention until the date of the court injunction?

The Witness: I think that is all.

[3270] Trial Examiner Leff: As I to take from your answer that you did not alter that part of the collective bargaining policy which provided that as long as that policy was in effect, no union members should seek employment in a shop operating under conditions of employment?

The Witness: That was obviously altered by the offering of the contract.

Trial Examiner Leff: Well now, to what extent was that altered and how was it altered?

The Witness: Well, I—by the use of form P-6-A.

Trial Examiner Leff: After the adoption of P-6-A, did the collective bargaining policy contemplate that no member of the union should accept a job in any shop not operating under conditions of employment or under a form of contract which was approved by the International?

The Witness: No, it didn't because of the fact that the

collective bargaining policy and its operation and interpretation was adaptable to the situation where the employer himself would put up conditions of employment that wouldn't be satisfactory to the union.

Trial Examiner Leff: Did you ever notify your membership by postcards, bulletins, or any other manner, that that portion of the collective bargaining policy that provided that no member of the union should accept a job in any shop not authorized under the conditions of employment would be revoked [3271] or modified in any respect?

The Witness: No. That was not necessary because the local unions were acting for the members thereof. The local unions were carrying on whatever kind of negotiations that were carried on.

Trial Examiner Leff: Well, how would a member of the union know whether it was still the collective bargaining policy of the union to require that members work only in certain authorized shops?

The Witness: Well, no member will work in a shop that is not approved by the local union.

Trial Examiner Leff: As a matter of ITU tradition?

The Witness: And local laws, too. It is just a basic factor that no one needs to make a law or regulation about. It is just understood. An individual member of a union will work only in shops that have the approval of the local union. Sometimes they have contracts, and sometimes they have none.

Trial Examiner Leff: But you did make a law about that at the August convention.

The Witness: Yes, but—

Trial Examiner Leff: And your collective bargaining policy was made part of the general laws of the union?

The Witness: Yes, but it—well, printers made it and not lawyers. In other words, when it referred to members of the union should not seek work, and so on, it just amplified [3272-3273] that the members then had to comply with whatever system was being followed by the local unions. It is sort of a collective direction rather than an individual direction. It didn't intend to direct the individuals in their particular conduct, but that it is their obligation to follow the contract prescribed by the local union, whatever it might be.

Trial Examiner Leff: If the ITU laws contained a provision that no union man shall work in a shop of a certain category, and a union man accepts employment in such a shop, would be guilty of ratting as the term is defined by custom and usage in your—

The Witness: The ITU does not designate that fact. That is only designated by the local union itself. The local union could declare a shop unfair, and if a worker worked in an unfair shop he could be punished by the local union for so doing.

• • •

[3280] • • • (By Mr. Sinsheimer) On or about April 16, did you receive from Local 6, that is the New York Typographical Local, a contract proposal which had been tentatively arrived at between the New York publishers and Local 6?

Mr. Van Arkel: I object, Mr. Examiner, on the grounds expressed yesterday.

Trial Examiner Leff: I ruled on that, did I not, Mr. Van Arkel?

Mr. VanArkel: Perhaps so.

Trial Examiner Leff: And I take it you are continuing your objections to this line. The objection is overruled. You may proceed.

The Witness: Yes.

Q. (By Mr. Sinsheimer) And did you thereupon send Mr. Victory, the president of the New York Typographical Union, Local No. 6, a Western Union telegram?

[3281] A. Yes.

Mr. Van Arkel: I would like to have the word "you" clarified. Do you mean Mr. Randolph, personally, or Mr. Randolph as an officer of the union, or do you mean the Executive Council of the union?

Q. (By Mr. Sinsheimer) Did you, as president of the International Typographical Union, upon order of the Executive Council, send a telegram to Mr. Victory?

A. I believe it was signed by the Secretary-Treasurer on behalf of the Executive Council. I am not sure. It may have been signed by me. I don't recall.

Mr. Sinsheimer: I ask the reporter to mark as Board's Exhibit 86 for identification, a paper entitled "Telegram to Laurence H. Victory, President, New York Typographical Union, No. 6."

This also bears on it the message from Mr. Randolph who, when in Indianapolis, said—and there is a quotation. After the quotation it states that the telegram was signed "By order of the Executive Council, Woodruff Randolph, President".

(Document referred to was marked Board's Exhibit No. 86 for identification.)

Q. (By Mr. Sinsheimer) I refer you to what has been marked as Board's Exhibit 86 for identification, Mr. Randolph, and ask you to please read that.

[3282] Trial Examiner Leff: Do you want it read into the record or have him read it to himself?

Mr. Sinsheimer: Have him read it to himself.

The Witness: Without referring to the original, I cannot say that that is exactly the telegram. In substance, it is.

Q. (By Mr. Sinsheimer) Is that the substance of the telegram that was sent to Mr. Victory?

A. It is.

Q. That was upon order of the Executive Council?

A. Yes.

Q. Was that sent on or about April 16 or 17, 1948?

A. Yes. I can't say what the exact date was.

Q. It was about those dates, was it not?

A. Yes.

Q. And can you recall now whether it was signed by you or by Mr. Hurd?

A. No, I can't.

Q. It was signed by either you or Mr. Hurd, Secretary-Treasurer, is that right?

A. I think that is so.

Mr. Sinsheimer: I will offer Board's Exhibit 86.

Trial Examiner Leff: Any objection?

Mr. Van Arkel: Yes, I object on the grounds expressed yesterday, Mr. Examiner, and further on the ground that this relates to an internal affair of the union and is, therefore, [3283] privileged.

Trial Examiner Leff: Objection overruled.

Board's Exhibit 86 is received.

(Document heretofore marked Board's Exhibit No. 86 for identification, was received in evidence.)

Trial Examiner Leff: For the purpose of the record, will you please have the witness identify Mr. Victory?

The Witness: He is president of the New York Typographical Union No. 6.

Q. (By Mr. Sinsheimer) A subordinate, local union of the International Typographical Union?

A. Yes.

Q. Following the telegram, Board's Exhibit 86, did you then receive a telegram from Mr. Victory?

A. Following what?

Q. Following the telegram which is in evidence as Board's Exhibit 86, which was sent to Mr. Victory, did you receive a telegram from Mr. Victory?

A. I don't know. I don't recall receiving one.

Mr. Sinsheimer: I will ask the reporter to mark as Board's Exhibit No. 87 for identification a paper headed, "Telegram to Woodruff Randolph, President, International Typographical Union, Indianapolis, Indiana", which is followed by a quotation and following the quotation, the statement that [3284] "signers of the statement in addition to Mr. Victory included all the other officers of the local union, its full Executive Council and the Wage Scale and Negotiating Committee."

(Document referred to was marked Board's Exhibit No. 87 for identification.)

Q. (By Mr. Sinsheimer) I will show you what has been marked Board's Exhibit 87 and ask you to read that to yourself, please.

A. I recall receiving a telegram in substance as indicated there.

Q. That was sent by Mr. Victory and the officers and full committee?

A. I can't accede to that.

Q. That was received from the New York local union, was it not?

A. Yes.

Q. And that was about April 17?

A. What date was Saturday?

Mr. Hanson: The 17th.

The Witness: That was on Saturday the 17th.

Mr. Sinsheimer: I offer Board's Exhibit 87.

Mr. Van Arkel: I object on the same ground.

Trial Examiner Leff: Exhibit 87 is admitted.

(Document heretofore marked Board's Exhibit No. 87 for identification, was received in evidence.)

[3285] The Witness: I can't say now whether it was Saturday or Friday, but it was around there.

Q. (By Mr. Sinsheimer) It was either the 16th or 17th of April 1948, is that right?

A. Yes.

Trial Examiner Leff: It is more likely that it was the 16th. I assume that from the fact that this exhibit indicates that it is an extract from a report in the New York Times on the 17th; The New York Times being a morning paper, the probability is that it was sent on the 16th.

Mr. Sinsheimer: I think the Examiner is correct. It might have been received the 16th or 17th, though.

Trial Examiner Leff: I don't think the precise date is important.

Mr. Sinsheimer: I think that either date is sufficient.

Q. (By Mr. Sinsheimer) Did you, following the receipt of Board's Exhibit 87, upon order of the Executive Council, send another Western Union telegram to Mr. Victory?

A. I think so.

Mr. Sinsheimer: I ask the reporter to mark as Board's Exhibit 88 for identification a paper entitled "Telegram Dated April 17, 1948", sent by Mr. Woodruff Randolph, President of the International Typographical Union, to Laurence Victory, President of the New York Typographical Union No. 6, following which is a purported quotation of a [3286] Western Union telegram and the signature of Woodruff Randolph, President.

(Document referred to was marked Board's Exhibit No. 88 for identification.)

Q. (By Mr. Sinsheimer) I show you what has been marked as Board's Exhibit 88 for identification, Mr. Randolph, and ask you to please read that to yourself.

A. I don't think it is accurate.

Q. Can you produce a copy of the original telegram, Mr. Randolph?

A. I don't have it with me.

Mr. Sinsheimer: May I ask whether we can obtain a copy of the original, Mr. Van Arkel?

Mr. Van Arkel: I am not inclined to supply a copy of the original, no.

Mr. Sinsheimer: Is it your position that we should offer to serve a subpoena for it?

Mr. Van Arkel: I have no position on the matter at all. It is a problem which is entirely up to you.

In addition to the grounds which I have previously voiced to this line of inquiry, Mr. Examiner, I would like to say this: it is a matter of common knowledge, it has been publicly stated in the press that the New York local has requested the assistance of International officers of this organization in connection with negotiations which are now pending in New York.

[3287] It is further well known that Mr. Randolph is expected next week, as soon as he is able to get away from hearings, to participate in those negotiations.

This is a patent effort by Mr. Sinsheimer to use the processes of the Board to extract from a negotiating official of the union, prior to the beginning of negotiations, information which can be used for the benefit of the publishers with whom Mr. Randolph will be negotiating.

In addition to the grounds which I so strongly urged yesterday, I submit that this is completely improper for the Board's attorney to attempt to take a partisan position with respect to pending negotiations by seeking to elicit from a witness on the stand the position he will or may take in the course of those negotiations.

I would like that objection to stand to all the previous inquiries with respect to this matter, as well as those I have already voiced.

Trial Examiner Leff: The only manner in which I can officially take notice is matter which may appear in current newspapers. In making any ruling in this case, I will be guided by one principle only, and that is whether the evidence ought to be introduced as competent and relevant and material to the issues of this case.

If Mr. Sinsheimer reaches outside of the issues of the complaint, then call that fact to my attention and I shall [3288] exclude the evidence, but if matters are relevant to this case that may also have a bearing on the negotiations, simply because they appear in the negotiations is no point for excluding it.

Mr. Van Arkel: It has been the uniform custom of Examiners not to allow inquiry into prejudicial matters. For example, the long-standing tradition of the Board against requiring the revelations of the names of union members is an example.

Trial Examiner Leff: If the names of union members were relevant to a case—for example, suppose you had a

case as to whether or not a union represented a majority, the names would be of record.

Mr. Van Arkel: Time and again I have seen examiners exclude questions of that type on the ground that they might prejudice one party or the other.

Similarly, in this very case you have not permitted me to inquire into matters which I thought were relevant concerning, for example, the effect of strikes on certain newspaper publishers. It seems to me that, to apply Mr. Van Arkel's rule of evidence that what is sauce for the goose is sauce for the gander, it is appropriate here that this matter should be excluded because it may prejudice the negotiations and if the question arises that these are not facts of record, I should like to examine the witness to make them facts of record.

Trial Examiner Leff: If and when questions are put to a [3289] witness, which are desirous of serving some purpose, other than to further the presentation of the case, then I will exclude it. I considered Mr. Diamond's question such a question.

I thought Mr. Diamond's question was designed to determine whether there was a violation of practices. That is a matter with which I am not concerned now, but insofar as Mr. Sinsheimer has done to this point, I do think that these questions are within the issues as framed by the pleadings.

Mr. Sinsheimer: I just want to say this, that I think that Mr. Van Arkel's last statement is another totally unwarranted statement and not supported by any facts or anything else, since we are going into this matter simply as another modified method of accomplishing some of the same things and also for the purpose of showing the control and continuing attitude of this union.

On the theory expressed by Mr. VanArkel, we should never have taken any testimony at any time, because somehow or other it might have affected these negotiations.

I would also like to point out to Mr. VanArkel that he has expressed a desire of expediting disposition of this proceeding, which we are in accord with. However, it seems that this expedition, desired by Mr. VanArkel, depends on his particular fancy at the moment. One time he wants to expedite it and another time he doesn't. At the present time, [3290] apparently, he isn't interested in expediting the proceeding.

Mr. VanArkel: I am not interested in complying with unwarranted requests for irrelevant information, if that is what you are saying.

Q. (By Mr. Sinsheimer) Mr. Randolph, in any event, you sent a telegram to the local union, following receipt of a telegram from the local union, and this telegram was sent about April 17, is that right?

A. That is right.

Q. Do you recall, in substance, what you said in that telegram?

A. No, I wouldn't try to recall it. It is too important a matter.

Q. In any event, you cannot state whether or not the substance is set forth on Board's Exhibit 88 for identification?

A. No.

Q. And you will not voluntarily produce at this hearing a copy or the original of that telegram?

Mr. Van Arkel: I have stated my position as Mr. Randolph's attorney, that we are under no obligation to produce that.

The Witness: I will rely on advice of counsel.

Trial Examiner Leff: How would the contents of the telegram aid you in establishing the control which you already have in Board's Exhibits 88 and 87, which reflect at least that the International, after the local has tentatively [3291] negotiated the contract, advised the local offices not to submit it to the local, in accordance with ITU laws, until the local offices had first obtained the approval of the International?

As far as control is concerned, it seems to me that that establishes your point, if it is a point.

As far as the contents are concerned, certainly if I feel you are seeking to ascertain the contents simply to determine what position the International took with reference to substantive matters and if relationship to the local, it might be absolutely irrelevant and possibly prejudicial, as Mr. VanArkel has pointed out.

Mr. Sinsheimer: As I said before, we are not going into this merely with respect to the matter of control. We are going into it as to certain substantive matters. Until and unless certain questions are active that Mr. VanArkel considers are prejudicial to their position, I should say not only that but improperly prejudicial to

their position, then I think we should be permitted to proceed.

Whether the matter is improperly prejudicial to a certain position depends on all the facts and circumstances and that of course was true, for example, with regard to authorization cards.

They were not produced in the representation proceedings upon request.

[3292] In 85, refusal to bargain cases, they had to be produced in order to establish it. The question is one of particular facts and circumstances of the case.

Trial Examiner Leff: I understand your position. I am not going to disagree with you about it, but I was just merely endeavoring to suggest to you that possibly it might not be of as great importance as you think it is, however, you are in a better position to know that I am.

Q. (By Mr. Sinsheimer) Following the sending of that wire that you referred to, Mr. Randolph, did the International Union appear and send a letter to Mr. Victory?

A. It did.

Mr. Sinsheimer: I ask the reporter to mark as Board's Exhibit 89 for identification what appears to be the copy of the letter addressed to Mr. Laurence H. Victory, President, New York Typographical Union No. 6, dated April 19, 1948, consisting of six pages, the last of which purports to bear the signatures of Woodruff Randolph, Larry Taylor, Elmer Brown, and Don F. Hurd.

(Document referred to was marked Board's Exhibit No. 89 for identification.)

Q. (By Mr. Sinsheimer) I show you what has been marked as Board's Exhibit 89 for identification, Mr. Randolph, and ask you to read that to yourself and to state whether or not it is a correct copy of the letter which you sent to Mr. Victory?

[3293] A. It is a very important document to us. I wouldn't attempt to recall whether that was accurate or not.

Q. Do you undertake to compare that with an exact copy?

A. No.

Q. Do you have an exact copy of the letter which is sent to Mr. Victory?

A. Not with me.

Q. Do you have that in the files of the union?
A. Yes, sir.
Q. Will you produce that?
A. No, sir.

Mr. VanArkel: Again, I think it can be understood that, on the advice of counsel, he is under no obligation to produce the original.

Mr. Sinsheimer: It seems, as I said before, evident, with respect to this particular matter, that Mr. Van Arkel has no intention of cooperating nor no present intention of expediting the hearing.

Mr. VanArkel: Certainly not for improper purposes, Mr. Sinsheimer, and that can be a matter of record.

Mr. Sinsheimer: It seems to me, Mr. VanArkel, that your position in that respect should be to object to the admissibility of certain documents, if you are desirous of expediting this hearing.

Mr. VanArkel: I am not interested in cooperating with [3294] the efforts of the attorneys for the general counsel, to cooperate with the Publishers to give them an unfair advantage in the collective bargaining negotiations which will take place in New York and it will only be over my emphatic protest that we will cooperate in the slightest degree in that kind of an unfair tactic.

Q. (By Mr. Sinsheimer) Mr. Randolph, I am going to read you the following sentence from Board's Exhibit 89 for identification:

> "The proposal of the New York Publishers Association has been carefully examined by members of the Executive Council and it is our opinion that the following alterations must be made in order to afford members the maximum protection obtainable under the present circumstances."

Do you recall that sentence in your letter to Mr. Victory?

Mr. VanArkel: I object to the question, Mr. Examiner, on all of the ground previously stated.

Trial Examiner Leff: Objection overruled. He is simply trying to identify the exhibit.

The Witness: I am not going to try to recall all or any portions of that document, all of which is very important to the union. It may be accurate and it may not. I am just not in a position to tell you that I recall that particular statement or any other portion of that document.

[3295] Q. (By Mr. Sinsheimer) You mean to say that you are unable at the present time to recall any statement or sentence from a letter that you sent the 19th?

A. Not when the importance of it is such that I would be testifying to its accuracy. I won't do that. I am not going to do it.

Q. With respect to the sentence which I just read, Mr. Randolph, did you write that sentence?

A. I don't know who wrote the sentence, if it was written, or what you are referring to.

Q. I am reading from page 2 of this Board's Exhibit 89 for identification.

I read this sentence: "Attention is called to a new section, headed 'Machinists' Apprentices', wherein it is provided that the rates of machinists' plans and regulations governing their technical training may finally be left to the determination of an arbitration board. This dangerous provision should be eliminated."

Mr. VanArkel: I object on all the grounds previously stated, Mr. Examiner.

Trial Examiner Leff: Is this for the purpose of having the witness identify the letter?

Mr. Sinsheimer: Correct.

Trial Examiner Leff: Objection overruled.

Q. (By Mr. Sinsheimer) Do you recall that sentence?

[3296] A. I don't recall that sentence as an accurate sentence.

Q. Do you recall the words "this dangerous provision should be eliminated."?

Mr. VanArkel: Same objection.

Trial Examiner Leff: Overruled.

The Witness: I stated before that I am not going to try to recall the accuracy of that document, in whole or in part. You may continue with every sentence that is in the document and the answer will be the same. I shall not attempt to recall and determine the accuracy of that document, either in whole or in part.

Q. (By Mr. Sinsheimer) You mean you do not propose to answer any questions with respect to this exhibit?

A. I am answering them all the same way I answered the first one.

Mr. Sinsheimer: May we have a short recess?

Trial Examiner Leff: Very well. We will take a five-minute recess.

(Short recess was taken.)

Trial Examiner Leff: Come to order.

Q. (By Mr. Sinsheimer) You testified that you had received a tentative proposal from the New York local about April 16, is that right?

A. Yes.

Q. Did the Executive Council have any objections to the local [3297] union entering into that tentative proposal?

Mr. VanArkel: I object on the grounds already expressed.

Trial Examiner Leff: Overruled.

The Witness: The Executive Council disapproved it.

Q. (By Mr. Sinsheimer) What were the reasons for the Executive Council disapproving that proposal?

Mr. VanArkel: Now, if the Examiner please, it seems to me that that is exactly the kind of question that I was talking about this morning, which is designed to be used by the Publishers in pending negotiations with New York. It can have no conceivable relevance to the issue in this case.

Trial Examiner Leff: I don't know whether it does or does not until I hear the testimony. I assume that the grounds for disapprovement were contained in that letter, to the admission of which you have such a strenuous objection. Had that letter been submitted to me, I could look at it and see whether it was relevant or not.

This way I have no means of knowing. The question may very well be relevant.

I will overrule the objection.

The Witness: What was the question?

Mr. Sinsheimer: Will the reporter read the question?

(The question was read.)

[3298] The Witness: There were quite a number of reasons and they were sent to the union in writing. I don't recall all of them and I do not want to give a verbal statement of them. It is too important in view of the harassment of the Board's attorneys against everything we propose.

Mr. Sinsheimer: I request that the Examiner direct the witness to answer the question.

Trial Examiner Leff: That part of the answer beginning with the words "in view" are stricken. It is not responsive.

Mr. Sinsheimer: May I have the part of the answer that was not stricken read, please?

Trial Examiner Leff: Yes.

(The answer was read, as requested.)

Q. (By Mr. Sinsheimer) What reasons can you recall for disapproving that tentative proposal?

A. I am not recalling any reasons. They are specifically stated in writing. I rely on the writing only, not my memory.

Q. Are you willing to produce the writing?

A. No.

Q. I am again asking you, what reasons can you recall?

A. I can't recall any.

Q. You cannot recall any reasons?

A. I am not going to recall any reasons that were stated accurately in the communication. I will not attempt to recall [3299] them because of their importance.

Mr. Sinsheimer: I am going to ask the Examiner to direct the witness to answer the question.

Trial Examiner Leff: What question?

Mr. Sinsheimer: That is the question I have asked the witness to recall. The witness is now refusing to answer the question.

Trial Examiner Leff: If he has refused to answer the question, you may make an appropriate motion.

Mr. Van Arkel: There has been no refusal to answer the question.

Trial Examiner Leff: He answered that he won't attempt to recall. The witness is on the stand and when he is asked a question, if he can't recall, he should make an effort to recall.

The statement that he won't attempt to recall is tantamount to refusing to answer a question in the opinion of this Examiner.

Mr. Van Arkel: I don't think the answer is susceptible of that interpretation, Mr. Examiner. If the witness has stated that, it would seem to me, is obvious, that he cannot recall what was contained in the lengthy, written letter, sir.

Trial Examiner Leff: That is not how the Examiner interpreted his answer.

Ask the next question.

[3300] Mr. Sinsheimer: I believe that the Examiner should instruct the witness that he is to answer questions propounded by counsel.

Trial Examiner Leff: The witness was so instructed.

The Witness: I don't recall what they were.

Q. (By Mr. Sinsheimer) Did the Executive Council have a meeting to discuss the reasons for disapproving the tentative proposal at New York?

A. No formal meeting.

Q. Was there a discussion among the Executive Council members?

A. There was.

Q. How long did such discussion last?

Mr. Van Arkel: I object to all of this on the grounds previously expressed, Mr. Examiner.

Trial Examiner Leff: How was that relevant, Mr. Sinsheimer, what they said among themselves? Aren't we concerned with the position the Executive Council took?

Mr. Sinsheimer: I believe they are concerned with the position that was taken and also the motive in taking that position.

Trial Examiner Leff: Let's find out first what position was taken and I can determine whether the motive is relevant.

Mr. Sinsheimer: I believe that the witness has, up to the present time, refused to state what position was taken, stating that he cannot recall anything that was in a written [3301] document, sent on April 19.

Trial Examiner Leff: You are not helpless in that situation. There are remedies provided for ascertaining that.

Mr. Sinsheimer: I believe in view of that status of the record that I am permitted to examine this witness concerning the motives of the Executive Council.

Trial Examiner Leff: I don't know that the motives are important, until I think that the matter to which the motives may relate is relevant.

What position or conclusions did the Executive Council come to?

The Witness: I testified here this morning that the Executive Council disapproved the proposals submitted by the New York Publishers.

Trial Examiner Leff: In what respects did the Executive Council disapprove?

The Witness: They disapproved it in a number of respects which were transmitted to the union in writing.

Trial Examiner Leff: What respects can you recall now?

The Witness: I don't recall.

Trial Examiner Leff: None at all?

The Witness: No. Recalling those respects—I am not trying to be difficult, but recalling those respects and testifying to them, verbally, from memory, is not accurate and I can't do it.

[3302] Trial Examiner Leff: Did the Executive Council disapprove the proposal with reference to any cause relating to struck work?

The Witness: It disapproved the whole proposal for reasons set forth in writing, Mr. Examiner. I am not trying to be difficult.

Trial Examiner Leff: You may not be trying to, but you are succeeding.

Mr. Van Arkel: I move that that be stricken, Mr. Examiner.

Trial Examiner Leff: Motion granted.

Mr. Sinsheimer: May we be off the record for a minute?

Trial Examiner Leff: Yes. Off the record.

(Discussion off the record.)

Trial Examiner Leff: The hearing will come to order.

Mr. Sinsheimer: We would like, at this time, to ask leave to have Mr. Randolph temporarily withdrawn as a witness for the purpose of calling another witness to identify a document.

Trial Examiner Leff: A single document?

Mr. Sinsheimer: A single document.

Trial Examiner Leff: No other purpose?

Mr. Sinsheimer: That is correct.

Trial Examiner Leff: Leave is granted.

(Witness temporarily excused.)

Mr. Sinsheimer: I would like to call Mr. Gerhard P. [3303] Van Arkel for examination as an adverse witness.

GERHARD P. VAN ARKEL, called as a witness and, having been duly sworn, was examined and testified as follows:

Trial Examiner Leff: What is your name?

The Witness: Gerhard P. Van Arkel.

Mr. Kaiser: Is this witness entitled to counsel?

Trial Examiner Leff: I don't know whether that was made in jest. I think the respondent is entitled to be represented by counsel. Counsel is now on the witness stand. Have you appeared in this proceeding yet, Mr. Kaiser?

Mr. Kaiser: This witness takes respondent by complete surprise so he has made no preparation for counsel.

The Witness: I feel that our interests are adequately protected now.

Mr. Sinsheimer: I think the record should show that Mr. Kaiser is Mr. Van Arkel's law partner.

The Witness: I couldn't be more capably represented (advertisement).

Mr. Hanson: Counsel for the opposing counsel will agree to that statement.

Direct Examination

Q. (By Mr. Sinsheimer) Mr. Van Arkel, did you send a letter to Mr. David Findling of the National Labor Relations Board on or about April 22, 1948?

[3304] A. I think that is the date, if you will let me have a look at it.

Mr. Sinsheimer: I will ask the reporter to mark this Board's Exhibit 90-A for identification, a letter dated April 22, 1948, addressed to Mr. David P. Findling, which appears to bear the signature of Mr. Gerhard Van Arkel.

(Document referred to was marked Board's Exhibit No. 90-A for identification.)

Mr. Sinsheimer: May we have marked for identification as Board's Exhibit 90-B what appears to be a copy of a letter dated April 19, 1948, addressed to Mr. Laurence H. Victory, President, New York Typographical Union No. 6, consisting of six pages, the last of which appears to have borne the signatures of Mr. Woodruff Randolph, Mr. Larry Taylor, Mr. Elmer Brown and Mr. Don Hurd?

Trial Examiner Leff: Yes.

(Document referred to was marked Board's Exhibit No. 90-B for identification.)

Q. (By Mr. Sinsheimer) I show you Board's Exhibit 90-A for identification and ask you is that an original letter which you sent to Mr. Findling on or about April 22, 1948?

A. Yes, it is.

Q. In that letter you refer to two copies of a letter of April 19 from the executive council to Mr. Laurence H.

Victory. I refer you to Board's Exhibit 90-B and ask you, is that one [3305] of the two copies of a letter of April 19 from the executive council to Mr. Laurence Victory which were inclosed with the letter of April 22, 1948?

A. It purports to be such a copy.

Q. Is that your statement, that that is a copy?

A. I have no knowledge.

Trial Examiner Leff: Is that the copy that you sent to Mr. Findling, Mr. Van Arkel?

The Witness: I didn't really read this over at the time I sent it, Mr. Examiner. On casual inspection, I can say that it looks like the copy of the letter.

Trial Examiner Leff: Are those the sheets that you sent, together with your letter to Mr. Findley?

The Witness: I would have difficulty in answering that, Mr. Examiner. They certainly appear to be the sheets which I sent to Mr. Findling.

Trial Examiner Leff: You have no reason in questioning that they are, have you, Mr. Van Arkel?

The Witness: No, I don't think I have.

Mr. Sinsheimer: I will offer Board's Exhibits 90-A and 90-B in evidence.

Mr. Kaiser: May I ask some questions opposing that offer?

Trial Examiner Leff: Yes.

Cross-Examination

Q. (By Mr. Kaiser) Did you ever see the original of which [3306] these sheets purport to be a copy?

A. No, I have not.

Q. Can you tell us briefly the occasion of your sending some sheets to Mr. Findling on that date?

A. Yes. Mr. Findling called me. As I recall, it was about three days before, or perhaps two days before and asked whether or not I had copies of a letter from the executive council to Local 6, which has been referred to in the press that morning. I said that I had no such copies and asked Mr. Findling—no, I am sorry.

Mr. Findling then asked if I could supply him with copies. I told him that I could make an effort to supply them and asked for what purpose he wished to have them.

He said that he was interested in following matters under the injunction which had been issued by Judge

Swickert on March 27 and asked whether, as a matter of courtesy, I could supply him copies.

I told him that I would make an effort to obtain copies and got in touch with Mr. Randolph.

I received from Mr. Randolph on the following day—no, I am sorry, on April 22 an envelope containing two copies which I mailed Mr. Findling that day with this letter.

I believe, though I did not check them carefully, that Board's Exhibit 90-B is one of the copies which I mailed, although I did not read them carefully at the time and have not [3307] compared them since.

Mr. Kaiser: With that statement, Mr. Examiner, we object to the offer of this as an exhibit on two grounds. First, there is nothing indicating the authenticity of the copy, at least inasmuch as it may reflect the original.

Trial Examiner Leff: Are you aware of the fact that Mr. Sinsheimer requested the respondents to produce the original?

Mr. Kaiser: At what time?

Trial Examiner Leff: Earlier, today, I think before you arrived. The respondent declined to produce the original, thereby laying the proper foundation for secondary evidence.

Mr. Kaiser: I was not aware of that fact.

Trial Examiner Leff: You are now.

Mr. Kaiser: I have an additional ground, if the Examiner please, which I think goes to the very basic question of the policy. We are faced, as you know, with this curious swinging door proposition of injunctions, and Trial Examiner hearings, and Board hearings and what-not. It seems to me that when there has been a courteous cooperation between counsel in connection with one proceeding, to then exploit that circumstance and introduce testimony received as a result of such courteous cooperation in another hearing and in a manner that would severely prejudice the principles involved, invites, I believe, a very serious deterioration of orderly procedures.

Trial Examiner Leff: That may be, but discourtesy, if it [3308] does exist, is not a legal ground for the exclusion of documents when their authenticity has been properly developed.

Mr. Kaiser: I would like to suggest that it is a legal

ground. The relationship of attorneys to their clients has always been a principle that has been very zealously guarded by the courts.

I suggest that where an attorney, in respect to one litigation, makes available to the government or the other attorneys some documents, for which that attorney might have received permission from its principal, in connection with that litigation, to have those documents used indiscriminately constitutes a breach of confidential relationship which has always been a legal grounds for the exclusion of testimony.

Trial Examiner Leff: I don't see how the rule concerning confidential communications has any applicability here since the attorney for the International Typographical Union voluntarily, and I suppose he did so without any restraint or coercion, turned over the documents to the government.

Mr. Sinsheimer: I don't see that And I don't see the purpose of this further attempt on the part of the respondent counsel to question the motives of the general counsel's office.

The Witness: The behaviour, Mr. Sinsheimer, not the motives.

Mr. Sinsheimer: In this entire matter, as the Trial [3309] Examiner is well aware, counsel for the respondents could have adopted the usual legal method of objecting to the admissibility of certain documents, and if there was any discourtesy, there were discourteous in refusing to either stipulate or produce documents, or to permit their own witness to identify documents or to testify concerning either documents or verbally as to matters within their knowledge.

[3310] Trial Examiner Leff: I think your mutual determinations have been sufficiently spread upon the record. Is there any legal ground for objecting to the admission of this document?

The Witness: I would like to reiterate, Mr. Examiner, on the record all of the objections to these matters, which have previously been expressed, which apply equally to this situation.

Trial Examiner Leff: Would you mind repeating that for me, so I may have them well in mind?

The Witness: First, on the ground that they relate to

an internal union matter and are therefore privileged; secondly, that they relate to the matters occurring since the issuance of the injunction on March 27th and, therefore, should properly be considered outside the scope of this inquiry; third, on the ground that they are highly prejudicial in view of negotiations now about to begin in New York City and that the only motive in attempting them is to take an unfair advantage of the respondents in connection with those negotiations; fourth, on the ground that this copy has been sufficiently identified as a copy of the original.

Mr. Kaiser: I think if I might just add a comment, which might be repetition, that I hope the Examiner is aware that there is no effort here on the part of counsel to hide behind or attempt to hide behind some technical exclusion, some technical exclusion under the rule. We are deeply concerned with the principle of bringing into any hearing, and particularly one where [3311] the issue of collective bargaining is at the crux of the matter, evidence of a kind that is directly related to meetings that are now going on and that are now scheduled to go on, meetings which at least take the form or look to the results of collective bargaining.

We think it is an outrageous performance, and we use that word advisedly, and if there be anything like a frustration of collective bargaining involved in this proceeding, it is nothing that respondents are alleged to have done, but it is precisely a maneuver of this kind where the agency of the Government, charged with the responsibility of fostering collective bargaining, is injecting itself into the collective bargaining table at the very moment that table is being surrounded by parties on both sides.

Trial Examiner Leff: I am interested in determining one thing. Perhaps counsel can agree upon it. Are the contents of this letter known to the New York publishers at this time?

Mr. Hanson: They have been published.

Mr. Reilly: They have been published in the newspapers and copies of that letter have been posted in every composing room in New York.

Mr. Kaiser: The Examiner knows of our off-the-record agreement, our offer to let these letters go into the record with the understanding that there be no cross-examination on them.

[3312] Trial Examiner Leff: Is it the letters that you fear will be prejudicial to your negotiating conferences or questions that may follow?

Mr. Kaiser: It is the questions that may follow.

Trial Examiner Leff: Then I think your objection should be made at the time the questions are asked, that is to say the questions which you deem to be improper or prejudicial.

I find no basis for the other objections. The objections are overruled.

Board's Exhibits 90-A and 90-B are admitted.

(The documents referred to, heretofore marked as Board's Exhibits 90-A and 90-B for identification, were received in evidence.)

Trial Examiner Leff: The witness is excused.

(Witness excused.)

Trial Examiner Leff: Will you please resume the stand, Mr. Randolph?

WOODRUFF RANDOLPH resumed the witness stand and testified further as follows:

Trial Examiner Leff: I won't hold this up. You have copies of this, don't you?

Mr. Van Arkel: I may say, Mr. Examiner, this is the best illustration that courtesy among attorneys does not pay.

Trial Examiner Leff: Will you please proceed, Mr. Sinsheimer.

Direct Examination (Resumed)

[3313] Q. (By Mr. Sinsheimer) Mr. Randolph, after you sent the letter of April 19th to Mr. Victory, did you receive any telegram or any Western Union wire from Mr. Victory thereafter?

A. I don't recall whether I did or not.

Mr. Sinsheimer: I will ask the reporter to mark as Board's Exhibit 91 for identification what appears to be a copy of a Western Union Telegram dated April 21, 1948. This copy appears to have been addressed to Mr. William Maple, Vice Chairman of the Publishers Association of New York City, and states the following telegram was sent to Mr. Randolph, President, International Typographical Union. That appears to bear the signature of Mr. Lawrence H. Victory.

(The document referred to was marked as Board's Exhibit 91 for identification.

Mr. Van Arkel: Is this witness supposed to have knowledge of telegrams sent by Mr. Victory to Mr. Maple?

Mr. Sinsheimer: I am going to ask the witness as to whether the contents, purporting to send a telegram to him, was sent to him.

Q. (By Mr. Sinsheimer) Referring to Board's Exhibit 91, Mr. Randolph, 91 for identification, will you read that to yourself, please?

Did you receive a telegram from Mr. Victory, as stated in Board's Exhibit 91 for identification?

A. I received a telegram from Mr. Victory. I cannot identify [3314] this as the telegram.

Q. Was the substance, as set forth in Board's Exhibit 91, the same in the telegram you received from Mr. Victory?

A. The telegram I received stated, in substance, the point arranged there. The four lines, alleged to be the telegram sent to me, stated in substance what I recall of the telegram I received.

Mr. Sinsheimer: I will offer Board's Exhibit 91.

Mr. Van Arkel: Objected to on the same grounds.

Trial Examiner Leff: Will you please state the grounds again? I have a poor memory.

Mr. Van Arkel: It relates to the internal affairs of the union and are, therefore, privileged. Matters occurring since March 27, 1947, and therefore action taken pursuant to the injunction decree which was issued on that date, are highly prejudicial to negotiations now pending in New York.

Trial Examiner Leff: Objection overruled. Exhibit 91 is received in evidence.

(The document heretofore marked as Board's Exhibit 91 for identification was received in evidence.

Q. (By Mr. Sinsheimer) Following the receipt of a telegram from Mr. Victory, the substance of which you stated was contained in Board's Exhibit 91, did you receive any further communication from Mr. Victory?

A. I don't know if I did or not.

Q. Pursuant to his request, are you making arrangements to participate in negotiations with the New York Publishers?

A. I hope to make such arrangements.

* * *

[3350] * * * Q. Let's come to the union foreman clause. It reads, "The following clause is not prohibited by the decree: It is agreed that all foremen of composing rooms shall be members of the union in good standing."

Has the International approved any contracts which have omitted that clause since August 22?

A. It is quite possible.

Q. Do you recall any, sir?

A. No, I wouldn't be able to recall any.

Q. If a union member becomes a foreman he is not relieved is he of his obligation under the oath he takes when he becomes a member of the union?

A. The question has never come up.

Q. I am asking you as an expert on the application of the constitution and the by-laws of the International Typographical Union.

A. As an expert I can tell you all members are bound by the laws, but as an expert I can also tell you that any law that is in conflict with the state or federal law is taken into consideration when we try to determine the obligations of the members, and certainly no law, whether it is one or another that is presently on the books, will be enforced either as against an employer or a member if that law is against the state or federal law.

Q. Well, to refresh your recollections, sir, the oath doesn't appear in the by-laws and general laws. It appears in the constitution of the union.

A. My answer applied to all laws.

Q. And does your answer apply to this portion of the oath, [3352] "I will at all times support the laws, regulations and decisions of the International Typographical Union and will carefully avoid giving aid or succor to its enemies and use all honorable means within my power to procure employment for members of the International Typographical Union in preference to others."

A. My answer applied to the whole book of laws from the beginning to end, including what you have just read.

Q. So that if a foreman did not give work to union members in preference to others, you would not regard him as having violated his oath or violated the constitution of the International Typographical Union, is that correct?

* * *

A. As I said before, we would take into consideration any law that would in any way violate the laws of the land.

Q. I asked you a more specific question. You first described the situation in general terms. I am trying to relate it to the specific. You haven't answered my question.

A. So far as I am concerned, I would answer your question, if I recall it, to the effect that he would not be violating the union law if—

[3353] Q. (interposing)—he failed to give preference on employment?

A. Yes.

Trial Examiner Leff: Since August 22, have you ever notified your foremen members that they were no longer obliged to carry out or fulfill the oath to which Mr. Reilly referred?

The Witness: No, we haven't.

Trial Examiner Leff: Did you ever give any notice to members prior to August 22 that when they became foremen that oath was no longer applicable?

The Witness: No.

* * *

[3358] * * * Q. (By Mr. Reilly) Coming down to struck work, is it fair to infer from your instructions here, Mr. Randolph, that the International proposes two alternatives to the local, one, the struck work clause which appeared in form P6A; I take it that is the struck work clause that is referred to, is it not, in the first paragraph? I am referring to the struck work clause we have previously recommended as not prohibited by the decree.

A. That probably refers to the clause of the P6A.

Q. And then most of the text of that is devoted then to the statement that "additionally, in recent negotiations the Printers League Section of the New York Employing Printers Association has agreed to the following proposal to meet the problem of struck work," and I don't know as I need to repeat this since it is in evidence, but I wonder if the witness would read it to refresh his recollection of it?

A. I have read it.

[3359] Q. What is meant, Mr. Randolph, by this

phrase, "It is the intent of the employer to limit composing room work to jobs obtained on a normal act basis?

A. Are you asking me what?

Q. I was asking you what that clause meant. I am particularly at sea as to what is meant by "normal act."

A. I don't know.

Q. But didn't you personally participate in the negotiations which resulted in the inclusion of such a clause in the New York employing printer contract?

A. I did.

Q. And you don't mean to say you agreed upon a clause as to the meaning of which you were in doubt, did you?

A. I surely did.

Q. Could you give us your best idea as to what it might mean?

A. I don't have any opinion about it. There is a provision in the agreement that if there is difference as to interpretation it can be settled by arbitration.

Q. But if there was a difference you would have to take either one position or another, wouldn't you?

A. Not me, no.

Q. Isn't there an appeal from any position the local takes to you?

A. No.

Q. Let me put the question a little more specifically. Suppose [3360] one of the member firms who signed this contract should accept a composition man from a non-union trade composition house. Would that be a breach of the normal clause?

A. I am not competent to decide that question. It is a matter for local determination.

Q. But in the negotiation of it though you went in and superceded the local and worked that out, did you not?

A. I never superceded a local.

Q. Don't the provisions of the International laws themselves give the International President a right to go in and take over the bargaining negotiations on the union's side whenever the locals and employers reach an impasse?

A. No. The laws provide a duty for the International President to attempt to work out a settlement when their local parties are deadlocked.

Q. They were deadlocked here were they not?
A. They were.
Q. And you worked out this settlement?
A. I did.
Q. And yet you want to leave the impression with this tribunal that you don't know what it means?
A. I would't say that. I answered your question specifically on one specific point, and on that specific point I told you I did not.
Q. But that must have been a rather major point in the [3361] contract when you cite it as a model to be used by other locals, is it not?
A. We wouldn't cite it as a model. We would cite it as the best we could get under the circumstances.
Q. Well, you say in these instructions, "Locals are advised to submit either the above clause or the struck work clause we have previously recommended," so apparently you thought pretty well of it, did you not?
A. We thought well enough to make that recommendation.
Q. Do you regard this clause as virtually achieving all the objectives which you would have achieved under the struck work clause in form P6A?
A. No.
Q. In what respect do you regard it as less satisfactory?

• • •

The Witness: As I recall the section in the P6A contract the employer was by contract obligated not to require our people to work on substandard work. The clause in the New [3362] York Commercial agreement doesn't mention that at all.

• • •

Q. I come now to the caption, "Limitation of liability" which begins, "All locals should include the following clause in their proposed contract," and then follows a clause which limits the rights of the parties for any breach to the Joint Standing Committee, and limits the amount of damages to $25, except in the cases of wage claims.
Did I summarize the meaning of that clause correctly?
A. Really I don't know. It is a rather long clause.
Trial Examiner Leff: We are all familiar with the clause.

Q. (By Mr. Reilly) Is it the same clause as was in P6A, is it not?

A. I don't know about that.

Q. Could you read it and refresh your recollection?

A. I could read it, but I wouldn't be able to tell you it was the same clause.

Trial Examiner Leff: Was it substantially similar?

[3363] The Witness: Yes, it is.

Q. (By Mr. Reilly) When you used the word "should" there, is that used in the sense of being mandatory upon the locals that they include such a clause?

A. No. It is not mandatory.

Q. In other words, it was used in a permissive sense here, is that correct?

A. That is right.

• • •

[3369] • • • Q. (By Mr. Hanson) Mr. Randolph, I believe you listed strikes as having been authorized at Rockville Center, Long Island, Jamestown, New York, Allentown, Pennsylvania, Morristown, Pennsylvania, Chicago, Illinois, and Abilene, Texas, Longview, Washington, Bartlesville, Oklahoma, Quincy, Pennsylvania, and Columbus, Georgia, since August 22. Is that correct?

[3370] A. I think so.

• • •

Q. Did you hear of a strike at Herrin, Illinois?

A. Well, that was a recent one I think. There was one; three little towns under one jurisdiction: Herrin, Carbondale and Murphysboro. That was an authorized strike. I had forgotten about it.

Q. Yes, and all before March 27?

A. I am not sure about that Herrin. It is a recent one.

Q. It took place while we were in Indianapolis. Will you accept my statement for that?

A. It is immaterial. I don't know what the date was. We could look it up.

• • •

[3371] • • • Q. Now you also heard of a stoppage of work of Union printers as Wisconsin Rapids, Wisconsin, did you not?

A. Yes, I heard of that one.

Q. Do you recall what the cause of that was?

• • •

The Witness: I received word from an outside source that the union had ceased work, or the members had, and I inquired of the local officers as to the circumstances. As I recall I was informed that the employer had hired a non-union man and [3372] then the next day or so made him foreman. Everybody quit. Most of them left town. That is all the information I got out of him.

Q. (By Mr. Hanson) And at Columbus, Georgia I believe there was a strike after the employer took away the power of the foreman to hire, is that not right?

A. I wouldn't say so; the records are complete on that. The testimony in Indianapolis brought out the facts. We term it a lock-out.

Q. What is your distinction between a strike and a lock-out, Mr. Randolph?

A. When an employer changes conditions without consent of the union and makes it impossible for the union members to cooperate to work there under the laws of the union, we have always regarded that as a lock-out. Of course, since the Taft-Hartley Law, the laws of the Union now in conflict with law are taken into consideration.

* * *

Q. Now then what was the condition that was changed at Columbus that resulted in what you term a lock-out?

A. The employer posted his own conditions of employment. The local union didn't like it.

[3373] Q. And those conditions that were posted were what they didn't like?

A. I can't give them to you. They are in the record. I didn't go into it.

Q. You authorized the payment of benefits however, didn't you?

A. We surely did. We authorized the declaration of a lockout because of his action.

* * *

[3374] * * * Q. (By Mr. Hanson) Before you authorize the strike you either go into the situation yourself or send your representative, do you not?

A. That is right.

Q. Did you receive a request to go to Boston yourself?

A. When?

Q. In October, 1947?

A. I received the usual notice of a dead-lock and request for strike sanction.

Q. And you went to Boston?

A. I went to Boston.

Q. And you reached the settlement at Boston?

A. No, I didn't.

Q. Was there a settlement reached at Boston after your visit?

A. Yes, there was.

[3375] Q. Do you know what the details of that settlement were?

A. The local union had been unable to get a settlement. The negotiation I had been on had been unable to get a settlement. We had negotiated for the proper length of time and not being able to get a settlement the International Union authorized the local union to establish a certain scale of prices. The union voted to establish it and the employers then agreed to pay it.

Q. Was that scale of prices established on your condition of employment?

A. They were established after I left the local union, for scale of prices only, and the employers started paying that scale of prices.

Q. Were there any changes in conditions of employment in the Boston newspapers?

A. I don't know of any. I wasn't in there on that at all. If there were any changes other than wages, I don't know. We authorized them to establish a wage scale.

Q. You also went into Detroit didn't you?

A. Yes, I did.

Q. You granted strike sanction there to two unions did you not?

A. No.

Q. Did you grant any strike sanction at Detroit?

A. No.

[3376] Q. Was strike sanction asked for at Detroit?

A. It was.

Q. Was it refused?

A. There was no action taken on it.

Q. By the Executive Council?

A. That is right.

Q. Are you sure of that, Mr. Randolph?

A. Yes, I am.

Q. You went into Chicago didn't you?
A. I surely did.
Q. You were there the better part of a week weren't you?
A. That is right.
Q. Strike sanction was authorized there, was it not?
A. The local union was authorized to establish a scale of prices.
Q. Were they ever given a strike sanction in Chicago?
A. Well, the action of the Executive Council was to authorize them to establish a scale of prices and strike any place that wouldn't pay it.
Q. That was a nation-wide action by the Executive Council was it?
A. A what?
Q. Was that a nation-wide action by the Executive Council?
A. It was Chicago I am talking about.
Q. No, you testified, if I understood you, that the [3377] Executive Council authorized the local union to establish a scale of prices.
A. The local union?
Q. In Chicago.
A. Chicago, yes.
Q. And strike anybody who didn't pay it?
A. Any of the publishers with whom they were doing business.
Q. Where else did you go upon request of the local union, if you recall, in the period between August 22 and March 27?
A. I think that is all.
Q. How about Washington, D. C.?
A. That is right. I did go in Washington.
Q. And what happened in Washington?
A. Well, we negotiated for several days and were unable to arrive at any kind of an agreement.
Q. Was any agreement ultimately reached?
A. Yes. There was an increase in wages granted by the Washington publishers.
Q. The strike sanction had been granted prior to that?
A. No.
Q. Was it asked for by the local union?

A. I think it was. I am not sure. I think I will have to change that answer. I don't think they asked for strike sanction in Washington.

Q. Did they in Detroit?

[3378] A. Yes.

Q. How many International representatives represent you in the field, Mr. Randolph?

A. Oh, there are half a dozen or so regularly, but anyone I choose on occasion.

Q. Mr. F. D. Carter is one of your regular representatives is he not?

A. Yes, he is.

Q. Mr. Charles Lyon is one?

A. Yes.

Q. Mr. Hootmaker is another?

A. Yes.

Q. Mr. Patrick is another?

A. That is right.

Q. Mr. Sinnig?

A. That is right.

Q. What was the name of the representative on the Pacific Coast?

A. Jack Whiting.

Q. Now let us take New England for a moment, Mr. Randolph. Do you recall whether you received a request for strike sanction from the local union of Brockton, Massachusetts?

A. No, I don't recall that.

Q. Do you recall whether you received a request for strike sanction from the local union at Lawrence, Massachusetts?

[3379] A. In associating that with Brockton, it seems to me there were four or five locals that Mr. Lyon was trying to help get settlements. I think in all of these instances, and I forget the names, the Executive Council did grant the full power to set to Mr. Lyon in the granting of strike sanction.

Q. And granted strike sanction?

A. To Mr. Lyon to put into effect, if he thought that the situation warranted it.

Q. And would those places include in addition to Brockton and Lawrence, Massachusetts, New Bedford, Massachusetts, Meriden, Connecticut, Manchester, New Hampshire?

A. I really don't recall the names. I know there was a group of four or five.

Q. How about Ironon, Ohio? Do you recall whether strike sanction was asked there or not?

A. No, I don't. Those matters come in and are a matter of routine. I don't ever make any attempt to remember them. That is what I have the representatives for.

Q. Do you keep any records of those things, Mr. Randolph?

A. We keep records of strikes, yes.

Q. Do you keep a record of requests for strike sanctions?

A. No. If it develops into a strike there is a record kept of it.

Q. And you have no idea how many requests for strike sanctions you had over the country within the period from August 22 to [3380] March 27?

A. No, I can't tell you that.

Q. More than a hundred?

A. I wouldn't even estimate it. I can't estimate it.

Q. But at that time, and during that period your policy was that if the publishers did not grant pay increases demanded by the local unions, the local unions were authorized to take strike action, were they not?

A. No.

Q. Wasn't that your general policy?

A. No.

Q. Wasn't that the threat that your representatives carried into each local bargaining case?

A. No, my representatives don't carry threats.

Q. Since when?

A. They have never carried threats.

Q. They had the power when they went in, as you have just testified about Mr. Lyon didn't they?

A. You know that is not true. That is a misrepresentation of what I said and you know it.

Q. Oh! no.

A. I told you that Mr. Lyon had the authority of the Executive Council to act in four or five specific cases.

* * *

[3381] * * * Q. (By Mr. Hanson:) Was similar authority given to Mr. Kirkpatrick?

A. It may have been in some particular case. I do not recall any now.

Q. Was there any to Mr. Carter?

A. There is, there was no doubt. We granted oftentimes to the representative rather than direct to the Union in order that absolutely all efforts possible be made before the strike was taken.

Q. And that would go to all of your representatives who went in the field, would it Mr. Randolph?

A. No, I say oftentimes we do that.

Q. Yes.

A. Oftentimes.

Q. And you have no records of those, you say?

A. No, we do not keep records unless a strike develops.

Q. Now let us get back to Detroit. Is it not the fact that [3382] your Union sought authority from the State of Michigan to take strike votes there at Detroit?

A. I think both the mailers and the printers filed the required notice under State Law preliminary to a strike.

Q. Did they obtain your approval before doing that?

A. No. They do not have to.

Q. Did they ever ask for strike sanction from the executive council?

A. Yes, they did.

Q. Was it given?

A. It was not.

Q. Why not?

A. That is our business. We base that on all of the facts that are put there and they are only discussed in the meeting of the Executive Council. In that case, there were none discussed.

Q. During the period between August 22 and March 27, or during the period between August 21 and on or about October 6 or 7, where the local unions under ITU policy were permitted to make any proposals to publishers—

A. From August 22 to what?

Q. October 6 or 7, when you came out with Form P-6-A.

A. Local unions were advised to make a proposal that there be no signed contract. That was contained on one of the post card bulletins.

[3383] Q. Were they not also instructed to obtain from publishers all of their proposals but to make no counter proposals?

A. No, I do not think they were instructed to that effect.

Q. Were they instructed to obtain wage proposals from the publishers and to submit any other proposals the publishers might make to you?

A. They were advised to comply with the law of the Union which is to submit all publishers proposals to headquarters before they submit them to the Union or sign them.

Q. And in that period of August 22 to Ooctober 6, they were instructed not to enter into any signed contracts?

A. They were advised that the policy of the Union was not to sign contracts and they were advised fully as to what the collective bargaining policy was as adopted by the convention, one paragraph of which is specific in that any contract signed must have the approval of the executive council.

Q. Board's Exhibit 17 states that 792 scales within ITU policy have been negotiated between August 22, 1947, and April 21, 1948; that 424 of those scales were in the newspaper business. Then that bulletin further states, of the total 792, conditions of employment, a total of 293; voluntary increase, a total of 363. Do you know, Mr. Randolph, how many of those conditions of employment were in the newspaper field as against how many were in the commercial field?

A. No, I do not.

* * *

[3385] * * * Q. What is the difference between your terms "conditions of employment" and "voluntary increases" listed on that exhibit?

A. The conditions of employment is where the union is authorized to estr ,lish the conditions of employment for governing the wages, hours and working conditions. The voluntary increase is where the employer increased the wages and nothing was done about a contract.

* * *

[3387] * * * Mr. Hanson: May the record show that in this examination pertaining to the total number of scales within ITU Policy since or between August 22 and April 21, 1948, I have referred to the Board's Exhibit 73-C brought up to date.

Trial Examiner Leff: Very well.

Q. (By Mr. Hanson:) I ask Mr. Randolph if you knew of any other contracts besides the sixteen P6A agreements that were entered into between October 6 and April 21?

A. I think that list shows some other contracts.

Q. It shows one as of January and six as of April 21. Do you recall the nature of those contracts?

A. I think it would be true that two of them were referred to here by way of Exhibits, one in Montgomery, Alabama and one in Columbia, South Carolina.

Q. Now other than P6A [3388] agreements, have you in your capacity as International President approved any agreement submitted to you by a local union, governing its conditions with publisher or publishers of newspapers since August 22?

A. Other than P6A?

Q. Yes.

A. Yes, and they are listed there on that list.

Q. And what are they?

A. If you will give me a copy of it I can answer.

Q. Yes, sir. I am asking only about newspapers.

A. I cannot give you that breakdown there, but the two I mentioned are newspapers, Columbia, South Carolina and Montgomery, Alabama.

Q. Montgomery, Alabama?

A. Yes. What did I say?

Q. Columbia.

A. Colombia, South Carolina and Montgomery, Alabama.

Q. All right.

A. These others are not broken down as to either the newspaper job or the other, and neither is the P6A.

Q. Do you recall other than Columbia and Montgomery any contracts that you have approved other than P6A between local unions and newspapers since August 22?

A. I do not recall any. Of course, the P6A was carried so.

[3389] I do not know whether they have got that classified here under other agreements or under P6A.

Q. Do you recall how many you have disapproved in that period of time?

A. No.

Q. Have you disapproved any?

A. I do not know. I do not do that work.

Q. You do not know whether the Executive Council or any of the officers of the Union have disapproved any contracts?

A. No. The routine simply is that if the contract is not subject to approval, it is returned and they are told why.

Q. Earlier this week, Mr. Randolph, I believe you testified about the termination notice in Form P6A and question came up as to where that termination notice appeared. I refer you to Board's Exhibit 7-Q and ask you if the first paragraph of that agreement does not provide that either party may terminate upon written notice of 60 days.

A. It does.

Q. Now you referred to a contract that was entered into with the Enid Publishing Company. Do you recall whether that had a sixty-day cancellation notice?

A. It is my recollection that it did.

Q. Further reference to Board's Exhibit 7-Q shows that paragraph C reads:

> "It is understand and agreed that the General [3390] laws of the International Typographical Union in effect January 1, 1947, and not in conflict with law or this contract, shall govern relations between the parties on conditions not specifically enumerated herein."

I understood you to testify to say that that represented the practice of the industry since prior to 1902. Was my understanding correct?

A. Yes, your understanding is correct.

Q. Prior to the enactment of the Taft Hartley Act, did any of your contracts contain the provision "not in conflict with law"?

A. No.

Q. So that phrase was added after the enactment of the Taft Hartley Act, was it not?

A. That is right.

• • •

[3393] • • • Q. I believe you testified on your direct examination that you considered certain of your General Laws at this time as being in conflict with the National Labor Relations Act, did you not?

A. I expressed the opinion that a certain section as a whole would be so regarded.

Q. And what is that section?

A. It is Section 10, Article 5, General Laws.

Q. Are there any others?

A. None occur to me right now. I think there is one to do with employment of men and minimums, Section 5, Article 7.

Q. Is that all?

A. That is all I recall.

Q. How about your Apprentice Section, Article 1 of your General Laws? Section 4, Article 1, for instance.

A. I do not know. We have to be guided by our Council on that one.

Q. How about the oath in Section 8, Article 1, where apprentices swear to use all honorable means "within my power to procure employment for members of the ITU in preference to all others"?

A. Apprentices are not in the position of hiring.

Q. Why do you have the oath, then?

[3394] A. They become apprentice members and they take the oath.

Q. How about Section 11 on page 96 of your General Laws which provides the beginning of the second year apprentices must be enrolled in the ITU course of lessons in printing and must take a course in principles of unionism prepared by the Bureau of Education of the ITU?

A. If they become apprentice members, that would be valid.

Q. How about Section 12 which provides, beginning with the second year apprentices must be in possession of an ITU working card?

A. That, of course, would be altered by whatever application the law might make to it.

Q. Then how about Section 14, that the President of the ITU is given power to cancel cards of all apprentices admitted to Membership in violation of the foregoing conditions? He is also entitled to define the offending unions.

A. That applies to apprentice members.

Q. How about Section 15?

A. The same reasoning applies to that or any other section, in any section of the law which may be found to be in conflict with the law we would certainly comply with the law as against the section.

Q. And will you go on to Section 17, Mr. Randolph, where local unions are mandated to incorporate in their contracts [3395] with employers a section containing the necessary requirements to carry out the apprenticeship laws of the ITU?

A. The same principle applies to that or any other section.

Q. Do you regard that as being in conflict with law at the present time?

* * *

The Witness: As applying to our own members, I would not think so. As applying to other apprentices, it might be. I say again we would be governed by whatever the necessities of the situation require.

Q. (By Mr. Hanson:) I wish you would read that paragraph [3396] carefully, Mr. Randolph, and I ask you if you understand that Section 17.

A. I do not see anything wrong with my answer.

Mr. Hanson: I wonder if you could give him a copy of that 7-Q exhibit.

Trial Examiner Leff: Is that the P6A?

Mr. Hanson: Yes.

Trial Examiner Leff: Hand him a copy of P6A.

(Document handed witness)

Q. (By Mr. Hanson:) Will you take a look at Paragraph (d) of your P6A form, please, and read that to yourself?

Have you read it?

A. Yes, sir.

Q. I believe yesterday you testified that the purpose of that paragraph was solely to define the jurisdiction of the Union; is that correct?

A. I do not think I testified it was solely that.

Q. Well, did you not testify that it was not intended to maintain the closed shop?

A. That is right.

Q. Now the first sentence of that paragraph (d) reads as follows, does it not

> "The party of the First Part agrees that it will not assign any work traditionally performed by [3397] journeymen and apprentice printers as defined by Party of the Second Part."

Is that correct?

A. That is correct.

Q. How do you define a journeyman?

A. One that is a competent journeyman, competent in the trade.

Q. How do you define an apprentice?

A. One who is learning to become a journeyman.

Q. Is that the extent of the ITU's definition of a journeyman and an apprentice?

A. No.

Q. What is the ITU definition of a journeyman?

A. I could not give you an exact and permanent definition of it. Our apprentices are set out and described in the Book of Laws. A period of training is prescribed for them at the end of which after examinations they are found to be competent and then declared to be journeymen. Now a journeyman is either an apprentice who has gone through that training in the Union or who may have gone through that training somewhere else, and after examination by the proper committees of the union found to be competent and eligible for membership in the union. That has been the past method of determining a matter of journeymen and apprentices. It is all set out in the Book of Laws.

[3398] Q. You will find the definition of journeyman in the Book of Laws and please cite it.

A. I do not recall there is any definition of a journeyman in the Book of Laws.

Q. Has it not always been the policy of the ITU that where the words "Journeyman," and "Apprentices," "Foreman," "Learners," "Members," "Extras," and so forth are used on contracts with publishers, they shall refer only to and be applicable only to members of the ITU and of a subordinate union of that union?

A. Well, our reference in our Book of Laws of course referred to journeymen, members of the Union, up until the start of the Taft Hartley Law. In other words, if we referred to journeymen in the union, members of the union as journeymen members or apprentice members, that has been our guide. When it comes to a journeyman printer as one who has become competent, that does not necessarily mean now that he is a member of the union. The question of whether or not he is a journeyman is determined after an examination by a committee—I am speaking now of before the Taft-Hartley Act—a committee of the Union with proper authority examined the applicant and determined

whether he was a journeyman or not. Whether he was admitted to the union after that is another question.

Q. I know you are speaking of the time up to the installation [3399] of the Taft Hartley Act. Were you not really referring of the time up to the date of March 27, Mr. Randolph?

A. No. March 27 of what year?

Q. Of the year 1948.

A. No. You were reading from the conditions of employment, were you not?

Q. Yes.

A. That was adopted long before then.

Q. I say, that in your Form P6A, paragraph (d), you had the publisher or whoever was the employer, agree that it will not assign any work traditionally performed by journeymen and apprentice printers to any employee other than journeymen and apprentice printers as defined by the Party of the Second Part.

A. That is right.

Q. Now I ask you again if between August 22 and March 22, the ITU definition of a journeyman and an apprentice printer did not embrace membership in the ITU.

A. No, not necessarily.

Q. Well, you did put that in your conditions of employment that you send out, did you not?

A. That is correct. That is correct.

Q. And in your conditions of employment you stated that where the words "Journeyman" and "Apprentices" as well as the rest of them I read were used, they should refer only to and be applicable only to members of the ITU and of the local [3400] subordinate union?

A. That is true and the reason for that was that we were only prescribing conditions of employment for our own people.

Q. What were you doing in Form P6A?

A. We were asking the employer to agree that he would not assign work traditionally performed by journeymen and apprentice printers to employees other than journeymen and apprentice printers.

Q. As defined by the Party of the Second Part?

A. Yes.

Q. I ask you to show me your definitions of Journeyman and Apprentice Printers other than members of the ITU.

A. We will have it.

Q. In your book of laws?

A. It does not appear. I do not recall that there is any law specifically describing what a journeyman is. I have described it to you. Now the purpose of (d) is obviously to prevent the employer from taking our work and assigning it to some other group, or some other class, or some other trade, or to employ half-trained people at less than the scale and avoid the control of the ratio of apprentices to journeymen.

Q. Do you mean to say, Mr. Randolph, that paragraph (d) was designed to permit the employer to employ non-union members?

A. It was designed to protect the jurisdiction of the union and it was no prevention whatsoever on the employer as against [3401] hiring non-union people.

Q. At the time you sent it out, however, you pointed out emphatically to your local unions that your conditions of employment would prove far more attractive if the employer gave one look at this, did you not?

A. Well, we did not say that.

Q. Just what did you say?

A. Well, it is in the record and I do not recall it, but we did not have the vicious twist to it that you put on it.

Q. Well, you admit you had a twist, though, do you not?

A. No, we did not have a twist. We were trying to be plain and matter-of-fact and clear.

Q. But you pointed out that after the employer read it he would find the conditions of employment far more satisfactory?

A. Well, if I was an employer, I would.

Q. And the conditions of employment as of October 6 defined "Journeymen and Apprentices" as persons who belonged to the ITU?

A. No, it did no such thing. It stated that where those several words were used in those conditions of employment, it applied to members of the union. That is what it said.

Q. Have you ever applied the words to anybody other than members of the union prior to today, Mr. Randolph?

A. We have always referred to a journeyman as one competent to work in the printing trade. We have had journeymen [3402] applicants and we have had apprentice applicants for all time.

Q. Do you regard Article 5 of Section 1 as possibly being in violation of the Taft Hartley Act?

A. To the extent that it might be, we have tried to comply with law by eliminating the word "Members" throughout Form P-6-A and substituting therefore "employees" so that the employee got the same rights and treatment as the Members under the contract.

Q. That being the case, I direct your attention to Article 5, Section 2, which provides that the only appeal from an action by the foreman is to the ITU. Do you regard that as in harmony with the Labor-Management Relations Act?

A. Well, the matter of handling discharged members according to the laws of the National Union may or may not be, depending on the circumstances. I do not know. One method is to arbitrate discharge cases and under that method most surely the procedure could not possibly be in violation of the law. The other method is a bargaining agent. It is a matter of law that we have to consider quite awhile before we could determine the fact.

Q. Then I direct your attention to Article 12, Section 3, where the International Typographical Union retains disciplinary power over the foreman for violating the provisions of its laws.

Trial Examiner Leff: What is that again?

[3403] Mr. Hanson: Article 12, Section 3.

The Witness: The possible objections that might be found to those sections are covered by every contract proposal that we have made. The section to which I refer is that Section (c) of P6A where the General Law is not in conflict with law or of this contract, and we have sought in every case where we have proposed any contracts to eliminate any possible violation of the law.

Q. (By Mr. Hanson:) You have done that Mr. Randolph, generally speaking with this proviso that your international law is not conflicting with the Taft-Hartley Law and that, being recognized by this employee, have you not?

A. That is right.

Q. I ask you if you consider that provision as in conflict with the law.

A. I do not know. It is something that would have to be determined if the question arose.

Q. Well, the ITU has always insisted upon retaining disciplinary power over the foremen, has it not?

A. Not for many things.

Q. For any violation of your own law?

A. Any violation of our own law—I would not say that

in a broad sense. There is the same penalty or same obligation on the part of foremen as any other member of the union to comply with the laws of the Union. That includes all of the [3404] The working conditions that are set out in the General Laws are very clearly described there and whatever penalty is put on a foreman because of the working conditions described there.

Q. Very well, but the foreman is often subject to disciplinary proceedings if any member of the Union in his shop wants to take action against him, is he not?

A. It all depends.

Q. It depends on what? You tell us on what it depends, will you please?

A. It is too big a subject to cover. I cannot cover it. There have been disciplinary actions against a foreman for violating the laws of the Union and for violating a contract after it is shown that he has violated it. It is very seldom. You can search our own bulletins and you will find very few disciplinary actions against the foremen.

Q. But you do have the power, do you not?

A. For certain things, yes.

Q. And what are those things?

A. For any infraction of union law, he is on the same basis as any other member.

Mr. Van Arkel: May I ask for a brief recess?

Trial Examiner Leff: Yes. Have you finished your answer?

The Witness: Not to that one. I think I answered it [3405] before, that a great many contracts have provisions in them that a foreman shall not be disciplined for actions in performance of his duty as foreman.

Trial Examiner Leff: We will take a five minute recess.

(A five minute recess was taken)

Trial Examiner Leff: The hearing will come to order.

Q. (By Mr. Hanson) I believe Mr. Randolph just before the recess you testified that a foreman is subject to union discipline for any infraction of union law; is that correct?

A. I think that is correct, but the fact of some union laws becoming working conditions governed by contract alters that picture considerably.

Q. What do you define as "Union Law" in connection with that answer?

A. There are conditions of law that are subject to nego-

tiation and setting by contract. The law becomes a contract provision.

Q. Well, you refer for instance to the Constitution, any infraction of the Constitution by a Union foreman.

A. Well, I testified awhile ago that there are some provisions of the constitution I believe that provide for the obligations that are altered by the Taft-Hartley Law. I say every provision of the Book is the same way. We are trying our best to comply with the law. We could not possibly comb the book and find out what was or was not in violation of the [3406] law. As we go along with the procedure of collective bargaining and when any question comes up we can settle it at the time. It is impossible to forecast all these things or prophesy them now.

Q. Let me repeat the question. Do you regard the laws which were referred to in that question as comprising (a) constitution, (b) the By-Laws, (c) the General Laws and (d) convention laws of the International Typographical Union?

A. Whatever the Constitution specifies as being the laws, that is it. I think you are reading from it.

Q. Yes. Now have you since August 22, 1947, made any effort to revise your laws so as to put them in harmony with the Labor Management Relations Act?

A. We have made no revision of the laws because of the Labor Management Relations Act.

Q. That did not answer my question, Mr. Randolph, but your answer causes me to ask this question: Did you not in fact after your Cleveland Convention materially overhaul your laws in an effort to avoid operations under the Labor Management Relations Act?

A. No. That is not true at all. We did amend the law to provide for a method of collective bargaining and we followed that method of collective bargaining until enjoined from doing so.

A. And since being enjoined, you have done nothing but overhaul [3407] your laws?

A. We cannot. We do not have a convention until August.

Q. Did not the resolutions of the Cleveland convention vest that power in the Executive Council?

A. No.

Q. It did not?

A. No.

Q. (By Mr. Hanson:) Getting back to your definition of [3408] journeymen and apprentices as contained in your long-form condition of employment, at any time since that was issued have you advised your local unions of any other definitions of Journeymen and Apprentices?

A. We have given no advice to local unions defining Journeymen and apprentices. Again I say that the describing of certain classes as journeymen was for the purpose of governing the relations of our members under conditions of employment. It was not a definition of journeymen for general use.

Q. And you have not sent out any instructions to them concerning those definitions since August 22, have you?

A. No. They all know what a journeyman is.

Q. Do you assume at the same time they all know what provisions of your laws and your contracts might be in conflict with the Taft-Hartley Law?

A. I do not assume anything about it, but I do know that if they question it they ask the Executive Council for an interpretation and we try to give it to them.

Q. Have you recently received some requests along that line?

A. No, I cannot say that I have, because then I would have to try to recall what they are. There is constant telephoning from all over the country about the condition of collective bargaining under the Taft-Hartley Law.

Q. Is it not still a fact, Mr. Randolph that the Mason City Local Union asked about that exact provision or reservation [3409] about not being in conflict with the law and who would determine it and you told them the Executive Council would determine it?

A. I do not recall anything like that.

Q. Have you received any such requests from any other local unions?

A. I cannot recall receiving any.

Q. Have you given that kind of advice to any of them?

A. No. I tell them when I do not know that we will cross that bridge when we come to it. They do ask a lot of questions and I give that answer to a lot of them. I am no oracle. I cannot tell everybody everything.

Q. Let us get back to the foremen, Mr. Randolph. The foreman is actually a part of management when he is in charge of the composing room, is he not?

A. We have always so recognized it.

Q. Do you consider it any more proper for a union to require management to include one of your members in management than it would be for management if it had the power to require a union to accept one of management as its business agent?

A. I do not think the question is at all practical or the comparison is at all practical.

Q. Why not?

A. Because this industry has the tradition of only union foremen and only union men for over 100 years. There is not [3410] any possible comparison. The employer has hired union foremen, he has hired union men. That is all. He is not hiring anything else, so how could it be applicable about a business agent being in management? There has been nothing like that in the industry.

Q. Well, Mr. Randolph, do you know how many open printing shops there are in the country today without union contracts?

A. No, I do not know.

Q. There are some very large ones, are there not?

A. There are some large non-union shops.

Q. Large non-union shops?

A. A few.

Q. How many?

A. I do not know.

Q. What is the present membership of the ITU?

A. Approximately 87,000 or 88,000 journeymen.

Q. Has it gained or lost since 1944?

A. It has gained.

Q. How much?

A. Three thousand or four thousand.

Q. In what manner has it gained in its membership?

Mr. Van Arkel: This is hardly relevant.

Mr. Hanson: I will show the relevancy of it. It is foundation.

Trial Examiner Leff: Go ahead. The objection is [3411] overruled.

The Witness: New members come in by way of apprentices that are graduated into journeyman status, and members who come in by way of applicants who are already journeymen.

Q. (By Mr. Hanson:) About how many apprentices do you take in each year?

A. I am not up on that figure, but I would estimate around 1,000 apprentices become journeymen a year.

Q. Now about how many of your members die or retire in the course of a year?

A. Somewhere around 1,000.

Q. It about balances, does it?

A. I would not say that. I do not know. I am just giving an estimate.

Q. Now you speak of applications from others than apprentices. What is the nature of those applications?

A. They are journeymen.

Q. And how do they happen to apply?

A. Well, now—

Q. Do they just come into your shop and make a request to the shop chairman or as a result of organizing campaigns, or how?

A. I cannot tell you. They come in through the local union.

Q. You do carry on organizing campaigns, do you not, in Union shops?

[3412] A. The International does not.

Q. The local union does, is that it?

A. I assume they do and we hope they do.

Q. Well, in those territories, then, where they carry them on, let us assume that under the old Wagner Act, before it was amended, they had 52 per cent of the employees signed up. Was it their usual procedure to seek a certification?

A. I cannot say that that was the operation in the ITU. We had very few requests for certification.

Q. Well, let us assume that they did organize a shop and got a majority. What happened to those who did not sign up?

A. We did not go in for that method at all. We found, if we organized a shop, we would organize all of it. We would collectively bargain for the members regardless of any Act.

Q. You mean to say you only bargained where you organized a shop 100 per cent?

A. I would say that under the closed shop condition, we would not try to bargain unless we had all of the members, or all of the employees. There are very few cases where we used the National Labor Relations Board, and

I can say right now they were abuses. Most of them have gone by the way since.

Q. Well, I recall one very distinctly which is a complete abuse, but that is neither here nor there. What I want to do is find out what happened to this minority group in a shop which you did organize. Did you take them into membership [3413] eventually, or force them out of employment?

A. You are describing something I am not acquainted with. Organization work is carried on by local unions. They could tell you. I cannot.

Q. Well, then, you are really not acquainted, you say, with what happened?

A. In such a theoretical situation as you describe. You do not know that it exists.

Q. Oh, yes, I do, Mr. Randolph. I am talking about one of your abuses that you referred to.

A. You testify about it then. I do not know.

Q. You are on the stand. I am trying to find out in the light of testimony you gave in another proceeding where you say the ITU never took in anybody that did not want to join or never forced anybody in who did not want to join. What happened in these cases where you obtained a majority and sought representation?

A. I cannot say that there was any such situation as you describe.

Q. How about Eastern Pennsylvania, the Eastern Express, the Express Publishing Company?

A. I do not recall anything about that.

Q. What is the extent of the Union foreman's power?

A. You mean Foreman's authority?

Q. Yes.

[3414] A. He is in charge of the composing room and does the hiring and firing.

Q. You would term him a supervisory employee, would you not?

A. Yes, he is a supervisory employee.

Q. What was the method of hiring and firing in a union composing room prior to August 22?

A. The foreman hired him, the foreman fired him.

Q. From whom did he receive his applications for jobs?

A. He did not receive them.

Q. How did he hire if he did not have any applicants?

A. Well, the system of hiring in a union composing room is that there are a certain number of steady situations that know the work and they work regularly. There is a group of men who show up for extra work and the foreman hires from that group and he hires them in priority order, based on the length of time they have been working in the composing room.

Q. Since the enactment of the Taft Hartley Act, have you sent out any instructions to your local unions that that system must be overhauled?

A. No, sir, and we do not intend to.

Q. In other words, you intend to have the slipboard maintained in the future as it has been in the past?

A. To whatever extent we can maintain working conditions that are not in violation of law we will.

[3415] Q. Is that slipboard the union's property or management's property?

A. As far as I know, the union members bought their own slipboards.

Q. Would a non-union member be able to put his name on that slipboard?

A. No doubt he would. Non-union member, did you say?

Q. I mean a non-union applicant.

A. I have every confidence that such a man would receive the same consideration in a composing room that a union member would.

Trial Examiner Leff: Does that answer your question?

Q. (By Mr. Hanson:) I want to know if you had the same confidence prior to March 27.

• • • • •

The Witness: Yes. There is no desire on our part to discriminate or violate the law in any way, and that was not March 27, but back in August.

Q. (By Mr. Hanson:) Did you not testify at Indianapolis [3416] that there is a difference between closed shop contracts and closed shop conditions?

A. I did.

Q. And did you not testify there that among the closed shop conditions which you considered to be legal was this procedure of having union cardholders file their names on the slipboard from which the foreman hired?

A. No, I did not.

Q. All right. I again ask you, Mr. Randolph, if that procedure of hiring was not one of the things that you attempted to protect between August 22 and March 27.

A. No. That procedure of hiring can persist without the application of the question of law. We are not trying to violate any law. It is not illegal.

Q. At any time prior to March 27, had you instructed union foremen that they must treat applicants for jobs on the same basis, either irrespective of membership or nonmembership in the union?

A. We issued absolutely no instructions to foremen. That is the bosses business.

Q. All right. Now when the boss at Columbis, Georgia, did issue an instruction for his protection he was taken over and there occurred what you termed a lock-out, did there not?

A. No. The details I have said I am not familiar with and I am not going into it. It is in the record. I do not know it.

* * * *

[3417] * * * Trial Examiner Leff: Yes.

Do the laws make any reference to slipboard practice?

The Witness: I do not think there is a single mention of it in the ITU Law Book.

Trial Examiner Leff: There is reference to it in the [3418] local laws, is there not?

The Witness: Sometimes, and sometimes it is solely a chapel proposition.

Trial Examiner Leff: What membership did you have in a local?

The Witness: I was a member in Chicago.

Trial Examiner Leff: Did the Chicago local have any laws relating to the priority system?

The Witness: Yes, both locally and on the slipboard. In fact, the slipboard regulations when I was working in the trade were uniform throughout the city.

Trial Examiner Leff: Can you recall whether or not the local laws in Chicago limited access to the slipboard to union members?

The Witness: No. It was never thought of. It was just one of those things that did not exist, you know. It was a custom and a convenience in the manner of hiring. The slipboard shows everybody's name, everybody that is showing up; regulars and extras as well. The system of hiring, the

regular can hire an extra to sub for him just by moving his slip. The people that are hired are visible and those who are not hired are visible, and it is an easy way of seeing who is available for what work. It is a method of appearing and was devised for that purpose and as a convenience to both the foreman and the members.

[3419] Trial Examiner Leff: It was contemplated to cover only union applicants for employment?

The Witness: There was only such all the time.

Trial Examiner Leff: Then in your P6A form you had a provision—I cannot recall the exact language but it was to the effect that the employer was not to interfere with a local right to make laws setting forth the conditions under which its members were to obtain employment; something to that effect. Do you recall that? I can get the exact language if you want me to. I think it was Clause (b). I am not sure.

Mr. Sinsheimer: You asked about the Chicago situation.

Trial Examiner Leff: Would you please read Form P6A, paragraph (b)?

The Witness: There are laws of the union, local and International, which refer to the members which have no particular reference to the employer.

Trial Examiner Leff: The priority laws would be such laws, would they not?

The Witness: Yes. That is one of them. That is the way our members would line up, for instance, for employment, to seek or accept employment. It is chapel rules that govern our members. There are decisions of local unions and of the International Union interpreting and applying those laws, and we ask the employer to recognize the right to continue this age-old system of laws, rules and decisions with regard to the [3420] manner in which they may seek or accept employment and agrees not to interfere with them.

Trial Examiner Leff: That would include the slip order system?

The Witness: That would include the slip order system.

Trial Examiner Leff: Mr. Byrnes, in Detroit, while testifying, stated that it was his understanding that a non-union applicant could not have his name placed on the slip order at Detroit, anyway. Do you think that his experience was inaccurate?

The Witness: I think it was inaccurate and probably will be straightened out as many other bugs would be if we got into a jam over it.

• • •

Q. (By Mr. Hanson:) Mr. Randolph, have you just said that the question of employment was a matter for management?

A. No. I said the question of instructing the foremen was a [3421] matter for the boss.

Q. To whom does the question of employment belong if it does not belong to management?

A. Well, it belongs to the management, certainly, but management historically hires through a foreman, the foreman being a practical man, a competent man, and one whom the members could work for and respect. That type of man has always been foreman in union composing rooms.

Q. Does he also have an imagination?

A. I would not be qualified to say that.

Q. Would you expect him to have an imagination to refuse to hire a man because he is too old or too young, belongs to the wrong religion, lodge, race, creed or even refuse to hire him for no reason at all?

A. I am not acquainted with the foreman's imagination.

Q. By the way, you are still a member of the Chicago local, are you not?

A. I am.

Q. How long have you been a member of it?

A. Since about 1913, I guess.

Q. As a journeyman?

A. Yes, sir.

Q. How long did you serve your apprenticeship?

A. I served it for four or five years.

Q. Do you not recall how long?

[3422] A. It was hop, skip and jump for me. I was not one of those privileged few that could get in one place and stay there. I kept going.

Q. Well, you did not serve six years, did you?

A. I would say about that. The law at the union at that time, I think, was only for four years.

Q. Has the printing trade developed so much since then as to necessitate the increase in time for apprentices?

A. We worked long hours in those days, six days a week. We had more time to learn.

Q. I thought they so fatigued you that you had to shorten them.

A. We did, we shortened them for that reason, but we wanted to give the same amount of hours to the apprentice to learn. He did not get any smarter in those days.

Q. I agree with you on that. Did you not at the Cleveland convention specify a different method of employing printers than the one you described here today?

A. Different method for what?

Q. Employing printers in composing rooms than the one you have described here today.

A. I do not think so.

Q. Did you not say "A union man seeking work in the union composing room knows how to get it. He does not go to the office. He does not go to the employer. He goes to the [3423] chairman to deposit his card and he goes to work in the union way"?

A. That is no different method. That has been done for years, as far back as I can remember, and it is the tradition of the union.

Q. I ask you now very seriously, have you heard of any non-union applicant getting a job in any newspaper office by depositing his card in a slipboard since August 22?

A. I have not heard of any.

* * *

Q. Do you consider the substitute rule is in harmony or in conflict?

A. What substitute rule?

Q. Of Article 5, Section 8, which gives to a situation holder the right to select his own substitute?

A. That has been a tradition of the union so far back that it is just a part of the union. Laws of the union have always provided that a situation holder would hire his own substitute. That went back so far that just no one knows anything to the contrary.

[3424] Q. I agree with you, Mr. Randolph, but since August 22, do you consider there has been any necessity for changing that practice?

A. Why of course not. The situation only wants to lay off when he hires a substitute.

Q. And under the obligation the situation holder takes if he is a union man, he must hire a substitute?

A. He does not have to do anything. He can hire a substitute without regard to anybody's guidance, but the fact that he does does not put him in management. He is protecting his own job by hiring a substitute.

Q. How many days do the situation holders work now?

A. They work five days, by contract.

Q. All right, now on the two days they do not work, who selects the men who do?

• • •

A. The situations are arranged on a five-day basis and the [3425] office designates which five days he works. He does not say anything about the other two days.

Q. Who does have the say about the other two days?

A. The situation is rotated by the management. It is arranged so that the man works five days. That is his situation for five days.

Q. So then the situation holder only names his substitute when he wants to go fishing or hunting or something else; is that right?

A. When he wants an extra day off, yes.

Q. However, he still designates who works or who does not work?

A. For him, and mind you that is an obligation that he has to supply steadily a man for that situation, and it is more of a convenience to the office than the man because if he could go fishing any time he wanted to they would be short help lots of times.

• • •

Trial Examiner Leff: If there are applicants whose names appear on the slipboard, must the situation holder take a name off the slip board?

The Witness: That is right.

Trial Examiner Leff: He cannot go outside and just choose anyone, any competent printer?

[3426] The Witness: No. All those who are showing for extra work are on there, and when a man is hired, he has to show up and has to work. It protects everybody.

Trial Examiner Leff: Then the situation holder has not much choice as to what substitute he may select, has he?

The Witness: He has the selection of what is there and oftentimes there is none there and he has to work.

Trial Examiner Leff: However, if there are men whose names appear on a slip board, he has to take the extra who has top priority?

The Witness: No, he can take anybody.

Trial Examiner Leff: However, he must choose a name from among those listed on the slipboard?

The Witness: He must, yes.

• • •

[3431] * * * (The document above referred to, Graphic Arts League counter-proposal, was marked Board's Exhibit No. 81-B for identification.)

[3432] Trial Examiner Leff: 81-B is admitted.

(The document referred to, heretofore marked Board's Exhibit No. 81-B for identification, was received in evidence.)

* * *

[3433] * * * *Cross-Examination (Resumed).*

Q. (By Mr. Hanson) When the hearing recessed last Friday, Mr. Randolph, we were discussing the right for regular situation holders as required by the general laws of ITU to designate substitutes whenever so disposed.

A. I don't know what we adjourned on, we were discussing a question.

Q. I ask if any union member can designate a non-union member to fill in as a substitute without violating his obligation, as that obligation appears in Article XII, Section 1 of the Constitution.

A. I don't think there is any doubt but what he has the right.

Q. You are familiar with that article, are you?

A. Yes. What article are you talking about?

Q. The oath that appears in Article XII, Section 1 of the [3434] Constitution.

A. Yes, I am familiar with that.

Q. Has that oath been changed since June 22, 1947?

A. It has not been changed, Mr. Hanson, but the exception of the words "not in conflict with the law," and the pronouncement of the convention that our collective bargaining policy must be within the law operates as a substantial change in its effect.

Q. Then the union member who holds a regular situation is no longer obligated by that move when he selects a substitute to give preference to another union member as against any other?

A. I can't say that exactly. I want to make it plain that to the extent that that law or any other law violates Federal or state laws, the union law has got to be waived. That is all-inclusive as regards the obligation or any other part of it.

Q. Have you, in your capacity as president, or the exec-

utive council or the union itself taken any steps to revise the Constitution, the by-laws, the general laws, or the convention laws of the ITU so as to remove any or all conflicts with the provisions of the Labor Management Relation Act?

A. No, we have not.

Trial Examiner Leff: May I interpose a question at this point: prior to August 22, could a union member designate as [3435] a substitute a man who is not a union member, if a union member was available for work?

The Witness: Prior to the passage of the Taft-Hartley law, a union member wouldn't think of trying to hire a non-union man, because we had closed shop agreements all over the country, and it is historic that union members wouldn't think of hiring others as a substitute.

Trial Examiner Leff: In fact, it would have been a violation of this oath to have hired a non-union man, when a union member was available?

The Witness: That's right.

Trial Examiner Leff: Did you ever notify the union members of any change in practice or policy in that respect since August 22?

The Witness: We consider the action of the convention sufficient notice. Every member gets a copy of the proceedings and the changes in laws are published in the journal subsequent to the convention. That has been a subject of common knowledge, that wherever the ITU law conflicts with national or State laws, the ITU laws must be waived.

Q. (By Mr. Hanson) Will you point that out in your convention proceedings?

A. It is in the collective bargaining policy, itself.

[3436] * * * Q. Where?

A. In the following paragraph:

"While there should not be and will not be any attempt on the part of the International or subordinate unions to violate any valid provisions of this law or of any law, Federal or State, yet there should be and will be earnest endeavors on the part of these unions to avoid any conditions that will result in their being penalized by these laws, and to avoid the sacrifice of rights and prerogatives which may be lost by the signing of contracts as heretofore."

Q. You think that is adequate advice, do you, Mr. Randolph, [3437] to individual members to disregard certain features in their oaths, where those provisions in the oaths conflict with law?

A. That, together with the fact that the executive council, as provided in the last paragraph of that section, "The executive council is hereby authorized to interpret, construe and force the above policy from August 22, 1947."

Q. I again ask you, has the executive council in interpreting or construing or enforcing this policy given formal notice to the individual members of the union that those requirements of the oath are in conflict with law?

A. No, we have not.

Q. On Friday I asked you to spell out the procedure for an appeal by a member from disciplinary action by the foreman. I repeat the request now, Mr. Randolph.

A. Again, please?

Mr. Hanson: Will you read it?

(The question was read.)

The Witness: There are two procedures provided for in ITU laws. One is the procedure whereby appeal is taken to the chapel, and from the chapel to the local union, and from the local union to executive council, and from the executive council to the convention. The other course is where a local union has by contract provided a specific provision for reference of discharges to a joint agency, and when that is done the dispute is decided as provided in the contract.

[3438] Q. Will you also spell out the procedures for disciplining of a foreman by the union?

A. The same procedures as apply to other members set out in the book of laws.

Q. Is it not a fact that under Article XII, Section 3, the chairman of the chapel or the president of the subordinate union have a right to fine the foreman under certain conditions, and that there is no provision for appeal from their acts?

A. That's not true.

Q. Well, let's assume that the chairman of the chapel, or the president of the subordinate union does fine the foreman under Section 3 of Article XII of the General Laws. What right of appeal does the foreman have?

A. He has the right to appeal to the local union and to the executive council, and the convention.

Section 3 itself provides for appeal to the subordinate union and executive council.

• • •

[3439] • • • Q. Now, Mr. Randolph, I direct your attention to Article III of the General Laws of the Union, and specifically sections 2 and 4 thereof. I believe it is your position, is it not, that under Section 2, a local union cannot sign a contract guaranteeing its members to work for any proprietor, firm, or corporation unless such contract is in accordance with International law and policy and approved as such by you as International president?

A. That's what it says.

Q. And under Section 4, I believe you say that subordinate unions are required to submit to the International president [3440] for review and approval, as complying with requirements of International unions, all proposals for a new contract, alteration, amendment, or extension of existing contracts before presentation to the employer.

A. That's what it says.

Q. And you rigidly enforce those provisions, do you not?

A. I what?

Q. Rigidly enforce those provisions of the General Laws, do you not?

A. We enforce it.

Q. Do you recall how many contracts between—

Trial Examiner Leff (interposing): Before you go on with that, may I ask how he enforces it?

The Witness: By refusal to approve any contract that has not been approved by the president of the International before adoption by the local union. The matter of proposals as provided in Section 4 is sometimes accomplished in the later phase by having submitted before submission to the union, but after negotiation.

Trial Examiner Leff: Please proceed.

Q. (By Mr. Hanson) Don't you go one step further than that, Mr. Randolph, in your enforcement?

A. What step?

Q. Don't you invoke Section 2 of Article IV of the By-Laws?

A. We have found it necessary once to call attention to that [3441] section and the compliance with Section 2 and 4 was accomplished by that purpose, or by that method.

• • •

[3444] * * * Q. Now then, in the event a local union does approve an agreement with an employer without submitting either its original proposal to you for approval, or its agreement as finally arrived at in negotiations, what disciplinary steps are you authorized to take?

[3445] A. That would require a search of the Book of Laws to determine that. We have not had such an incident arise where the council has sought to do that.

Q. The nearest approach to it was the case of the San Francisco local, was it not, Mr. Randolph?

A. That question was not even involved in the San Francisco proposal.

* * *

[3447] * * * Q. (By Mr. Hanson) I believe you testified last week, Mr. Randolph, that the New York negotiations have now been placed in your hands by the local union.

A. I wouldn't use those words; I would say they have called upon me as provided in Article 19 of the By-Laws, Section 1.

Q. That article, I believe, provides that in the event of a disagreement between a subordinate union and an employer, which in the opinion of the local union may result in a strike, such union shall notify the president, who shall in person or by proxy investigate the cause of the disagreement and endeavor to adjust [3448] the situation.

* * *

[3449] * * * Q. Well, then, we will put it this way, Mr. Randolph: Were you not notified that the scale committee and the local publishers had reached an agreement upon the terms of the contract, which the scale committee was recommending to the local union for its approval at a meeting on Sunday, April 18, 1948?

A. I can answer yes to that.

Q. And when that agreement was submitted to you, you directed that the meeting should not approve of it, did you not?

A. The action of the scale committee was predicated both on approval by the President of the International Union and a vote of the Local Union.

Q. As to date there has been no approval either by the President of the International Union or by the Local Union?

A. That is right.

Q. And will you agree with me that the President of the International Union has a final say as to that action when it is taken?

A. As to what action?

Q. Approval or disapproval of that agreement, or any other agreement.

[3450] A. The Executive Council has the final approval as to that agreement.

Q. But as a prerequisite to that, the International President has to approve or disapprove, does he not?

A. It is obvious from the law I just read you that the Executive Council has the final authority on that point.

Q. Then you would say that in effect the local union scale committee is merely the bargaining agent for the Executive Council on any matters that deal with union law and union policy?

A. No.

Q. Why not?

A. The local union is the bargaining agent.

Q. But it cannot enter a contract without the approval of the Executive Council that you regard as valid, can it?

A. That is right. It must comply with the laws of the union and submit those contracts to the Executive Council. The collective bargaining policy is specific on that point. Section 2 and 4 have been in the laws for a great many years. It is a collective bargaining policy which is added to Section 1, I believe, of Article 3, is the new law which provides that the Executive Council—which provides that no local unions may enter into no-strike agreements of any kind without approval of the Executive Council.

Q. Other than P-6-A contracts, can you tell me how many contracts between locals of the ITU and publishers have been [3451] approved by you as president since August 22, 1947?

A. I think the number is stated on that list of settlements, the list says other contracts, six.

Q. Can you segregate or, rather, separate the newspaper contracts from the commercial printing contracts in that list?

A. No, I don't have that separation.

Q. You don't know whether any of those six was with a newspaper, do you?

A. Yes, I know two of them.

Q. What were they?

A. Columbia, South Carolina and Montgomery, Alabama.

Q. I thought they were P-6-A modifications, according to your testimony.

A. No, I didn't say that, they are 60-day cancellation clauses.

Q. Now, do you recall contracts that have been submitted to you since August 22nd, that you have disapproved?

A. No, I don't know that.

Q. You have disapproved some, have you not?

A. I suppose so.

Q. You disapproved the New York agreement, did you not?

A. I haven't handled the mass of contract proposals that come in.

Q. The Executive Council disapproved in New York?

A. That is right.

Q. South Bend, Indiana, did it not?

[3452] A. I don't recall South Bend.

Q. Do you know of any others in the newspaper field that have been disapproved since August 22?

A. I don't recall any. Undoubtedly there were some.

Q. Now, Mr. Randolph, returning for a moment to the phrase, "Not in conflict with law", it appears in your contract proposals as related to various provisions. Is it not a fact that by reason of the provisions of Article 3, Section 1 of your general laws, the employer's sole recourse for interpretation under the contract is to the ITU?

A. Sole recourse as to the interpretation?

Q. Is that phrase not in conflict with the law?

A. No, the interpretation of ITU laws has always been reserved to the ITU. The question of whether or not a contract proposal is in conflict with federal and state laws is something that we will have to take up when the occasion arises, and to whatever extent is necessary to work it out.

Q. Well, Section 1 of Article 3 provides that the laws of the local union not affecting wages, hours, or working conditions, and the laws of the International Typographical Union shall not be submitted to arbitration, does it

not? The last proviso in the first paragraph.

A. That is right. You are reading from it.

Q. From Article 3, Section 1, of the general laws. So that if there be a question as to the validity of any provision in your [3453] general laws, or in the laws of the local union not affecting wages, hours or working conditions, that question cannot be submitted to anyone other than the Executive Council for determination, can it?

A. If it involves a conflict with federal or state law, it quite naturally will be taken up with the employer, or the employer with the union, and worked out. The language there is the language that has been in effect throughout the International arbitration agreement, and for many years past.

Q. Well, doesn't the very next section of the general laws, the next paragraph, provide that where the contract between the local union and employer does not provide a method for the adjudication of difference as to interpretation and enforcement, the employer may require the International Typographical Union to interpret the obligation of the local union, provided said contract has been approved by the President of the International Typographical Union as conforming to the laws of the International Typographical Union?

A. That is what it says.

Q. There is no method provided in any of these contracts that receive your approval for the adjudication of difference over the general laws of the ITU other than by reference to the ITU, is there?

A. Oh, yes, with reference to a joint tenancy in matters of discharges; it seems to me, you are emphasizing only one part, [3454] of that section you just read.

Q. You emphasize any part that you please, Mr. Randolph.

A. The plain language of that section is that the International Typographical Union is to interpret the obligations of the employer. That section is a protection to the employer so that the International Union can set a local union right, if they are off on the wrong foot.

Q. Very well. Now, will you please refer to the provision in your general laws that does provide for the interpretation of the obligations of the employer?

A. I didn't say there was any such section.

Q. All right, in the case of differences between an employer and the International Typographical Union over the obligations of the employer, what section of your general laws covers that?

A. He won't have a difference with the International Union, he will have a difference with the local union.

Q. And if that difference involves either local unions, except as provided in this article, or International law, how will the difference be settled?

A. It will be settled by an interpretation of the local union, or the Executive Council, as the case may be. If it goes as far as the Executive Council—but I say again, with the exception that should any of those interpretations involve a question of violation of state or federal law, satisfactory means will be [3455] provided to settle that question.

Q. You say they will be provided?

A. Undoubtedly.

Q. They are not provided now in your general laws, are they?

A. They are not.

Q. Is it not a fact, Mr. Randolph, that you as the International President, or the Executive Council, have the power to dictate the terms on each and every contract?

A. That is not so.

Q. Is it not a fact that you as International President and your associates on the Executive Council have the power to construe the terms of each and every contract?

A. That is not so.

Q. And except as to wages, hours and working conditions, is it not a fact that the Executive Council has the power to determine all differences between a local union and an employer arising under each contract?

A. That is not so.

• • •

[3456] • • • Q. (By Mr. Hanson) Mr. Randolph, your policy is not to arbitrate these general laws of the International Typographical Union, is [3457] it not?

A. That's right.

Q. Now, the general laws of the Typographical Union require the inclusion of a struck work clause in every contract approved by you, do they not?

A. The only law on struck work is Section 5 of Article

3, which provides, "Subordinate unions at all times have the right to define as struck work composition executed wholly or in part by non-members, and composition or other work coming from or destined for printing concerns which have been declared by the union to be unfair, after which union members may refuse to handle the work classified as struck work.".

Q. All right. Now, I pursue the matter still further. Let's assume that there is a struck work in an existing contract between a local union and an employer, and that a dispute arises between the parties to that contract as to the application or the interpretation of that provision. Can that dispute be arbitrated under your general laws?

A. It would depend a great deal, I suppose, on what the dispute was, and what the section provided for in the contract.

Q. Have you ever approved a contract without a struck work clause in it?

A. I don't know.

Q. Do you recall any?

A. No. I will say I have approved a contract—yes, the [3457-A] New York commercial field contract doesn't have a struck work clause in it.

Q. When was that contract approved?

A. Probably the second week in March, 1948, I believe.

• • •

Q. Does not Section 2 of Article 9 of your general laws make the interchange and exchange and borrowing, lending or borrowing of matters either in the form of type or matrices between newspapers, between job offices, or between newspapers and job offices, or vice versa, not owned by the same individual, firm or corporation, and published in the same establishment unlawful?

A. I think you were reading from the section—were you?

Q. Yes, sir.

A. Yes.

Q. That is unlawful to ITU law, is it not?

A. Yes.

Q. And only that?

A. That's right.

Q. Let us assume that there is a dispute between a publisher and a local union over the application of the re-

production clause in the contract. May that be referred to arbitration for settlement?

[3458] A. It has been a number of times.

Q. In recent years, under your existing law?

A. The same law has been on the books for a great many years.

Q. When was the last occasion for that?

A. Well, I wouldn't be able to tell you that.

Q. It was before you were president of the union, was it not, Mr. Randolph?

A. Yes.

Q. You changed the policy when you came in, did you not?

A. Not that policy.

Q. Well, now, I will ask you this: May the question as to whether the ITU laws for any particular year are in conflict with law be submitted to arbitration?

The Witness: Read that question again, please?

(Pending question read.)

The Witness: Whatever laws are agreed to in the contract are the laws that govern for the life of that contract and the interpretation of those laws, in general, is a matter for the Executive Council.

Q. (By Mr. Hanson) You say in general?

A. Yes, because there are some that have been, some of the laws have been complied with by incorporation of certain sections of the contract, and as to the effect of those sections, such as reproduction and discharges, they have been subject to arbitration.

[3459] Q. Well, your provision is that the International laws not in conflict with the provisions of the contract or not in conflict of law are recognized by the publishers, is that not correct?

A. That's right.

Q. So I am speaking of those, now, that have no relation whatsoever with the contract, where you have approved a contract and therefore by that act have approved certain exceptions, possibly. I am speaking of those that are not excepted in the contract. I am asking who determines the question of any dispute arising over that.

A. There can be no dispute as regards laws that are not accepted in the contract.

Q. In other words, when the employer accepts that blanket recognition provision, it is your position there can be no dispute?

A. No, no, that isn't what you said. The laws accepted in the contract are the only laws applicable to that contract and to the extent that they are not in conflict with the contract or in conflict with law.

Q. Well, I do not think I understand you; I used the word "except", instead of "accept", Mr. Randolph; possibly I did not make myself clear.

A. Yes, that's the trouble.

Q. Take your contract, and you say there are certain variations [3460] from general laws that you permit the local parties to agree upon as to struck work, say, or as to reproduction or as to discharge, or something else. Now, your contract provides that the general laws of the International Typographical Union are recognized by the publisher except where in conflict with the terms of this agreement or with law; that is your reservation, is it not?

A. That's right.

Q. Very well. Now, who determines those conflicts if conflicts arise between the publisher and the local union?

A. In the first place, the local union would take a position on it, and if the publisher differed with the local union, and the contract was one that was approved by the ITU, he could require the International Union to interpret the obligations of the local union under that contract as they may affect the laws we are discussing. The Executive Council would then interpret the obligation of the local union under those laws.

Q. Now, then, I ask you again, if it is not a fact that the International Typographical Union will not submit its general laws to arbitration?

A. Again I will say that as a general proposition it won't.

Mr. Hanson: Could we have a brief recess?

Trial Examiner Leff: Yes, five minutes.

(Short recess.)

Trial Examiner Leff: The hearing will resume.

[3461] Q. (By Mr. Hanson) I believe you said that in the New York commercial contract which you have recently approved there was no struck work provision.

A. There was no provision referring to struck work.

Q. There is a substitute provision, however, requiring the employers to confine their business to a normal account basis, is there not?

A. There is a provision in the contract to that effect.

Q. Is that a definition of normal account basis?

A. There has none been made.

Q. What is your understanding of it?

A. I don't have any understanding about it.

Q. That is one of the things to be determined in the future, is it?

A. To be determined by the provisions set out in the contract.

Q. If there should be a dispute?

A. That's right.

Q. Mr. Randolph, in connection with the adjustment of disputes that may arise, is it not a fact that the International Union through its Executive Council reserves the right to declare non-arbitrable any proposal which in its judgment is violative of basic policies of the union, or which may bring about conflict with granting by an arbitrator?

A. The question is too complicated; I can't understand it.

Q. Is that not your own statement of the policy as announced [3462] on August 25, 1944?

A. I would have to see it before I could say that was it.

Q. Well, on or about August 25, 1944, you did announce a new arbitration policy, did you not?

A. Not as a matter for affecting the laws of the union. If I recall that date, there was controversy as to how the International Arbitration Agreement might be used, and there was a basic difference between Mr. Dale, the Chairman of the Special Standing Committee of the ANPA and myself over what was arbitrable under that agreement, and the Executive Council declared certain policy with respect to the use of that agreement if local unions wanted to use it. I am not familiar with the dates, but I believe you are referring to that particular incident, are you not?

Q. That's right. That policy consists of six points, does it not?

A. I think it had six points in it applicable only to that arbitration agreement.

Q. And that International Arbitration Agreement had expired in 1922, had it not?

A. That's right.

Q. But by mutual agreement it had been used by the parties between 1922 and 1944, where the local unions wanted to avail themselves of it?

A. No, it was by mutual agreement by local parties, and

the machinery was held available if they wanted to use it. There is [3463] no agreement at all between the ANPA and the ITU.

Q. I understand that. Was not one of the points that you announced for the Executive Council on August 25, 1944, that the duration of an arbitration award should be limited to the calendar year in which the award was rendered?

A. As applying only to that agreement, and I say again, because of differences in what I considered absurd regulations placed on it by Mr. Dale.

Q. Was not another policy that you laid down, or another point, that when current International Typographical Union laws and policies, or the above-stated conditions precedent to arbitration, prevent agreement by the President of the International Typographical Union and the Chairman of the Special Standing Committee of the American Newspaper Publishers Association as to arbitrable points or as to an arbitrator, or when said Chairman raises non-arbitrable points or policies on behalf of the publishers which are not acceptable to the International Typographical Union, the Code of Procedure shall be declared unworkable, and therefore the local union involved be released from any obligation to proceed further therewith?

• • •

[3464] • • • Trial Examiner Leff: How is that within the framework of the complaint?

Mr. Hanson: Under 8 (b) (1) (b).

Trial Examiner Leff: Relating to foremen?

Mr. Hanson: Not only relating to foremen, but adjudication of grievances.

Trial Examiner Leff: I am not quite clear how that fits with 8 (b) (1) (b).

Mr. Hanson: Well, it means to restrain or coerce an employer in the selection of his representatives for purposes of collective bargaining, or the adjustment of grievances. You may have grievances arising under a contract, and here you have a unilateral determination by the union with no representation of the employer. I have been wrong —maybe I am wrong.

Trial Examiner Leff: Do you understand that to be within the complaint, Mr. Sinsheimer?

Mr. Sinsheimer: It would seem to me that if the union not only went so far as to dictate who the representative

was, but the employer couldn't have any representative, that Section 8 (b) (b) (b) would cover it.

Mr. Van Arkel: So what? This was in 1944 that you are talking about.

[3465] Mr. Hanson: You still adhere to the policy laid down then, don't you, Mr. Randolph?

The Witness: It has no effect at all.

Q. (By Mr. Hanson) Why not?

A. Since that time the Executive Council has ruled that there is no possibility of using that International Arbitration Agreement. That is a dead document. It has no effect whatever as between any local union, any employer and the ITU.

Q. Then I ask you how you do adjust the grievances, or the differences that arise now?

A. Contracts have specific provisions in them, whereby differences as to interpretation and enforcement are taken care of through a joint standing committee procedure.

Q. Has the joint standing committee got any right to pass upon the application of International law?

A. As a general proposition, no. I want to make it clear if you would like to have it, just what the non-arbitrability means, and its history.

Q. Well, I certainly would like to have it on the record. Will you please proceed?

A. When the union first made arbitration agreements, the laws of the union affecting shop working conditions were accepted as operable, and without question. The very language as contained in the law, and which was read into the record, was used in International Arbitration Agreements over a period of 21 years [3466] to exempt from arbitration the laws of the International Typographical Union. These laws provide for certain minimums and maximums—can't have more than an eight-hour day. Therefore, if an employer proposed a nine-hour day, and the local union proposed an eight-hour day or less the Chairman of the Special Standing Committee and the President of the International Union in joint action would rule that the arbitrator may not award any day over eight hours per day.

The International Arbitration Agreement had to do with the arbitration of contracts and scales of wages, and in all of the years of its operation I never heard of a case of interpretation of local agreement reaching the International Arbitration Board, with the exception, perhaps, of one case.

The fact that the International Arbitration Agreement was not renewed in 1922, and the fact that it was used less and less as the years rolled by, and the fact of the growing restrictions or expansion, as the case might be, in interpretation by the Chairman of the Special Standing Committee, made the document useless, and the ITU therefore discarded it as a whole.

And the language as to non-arbitrability that is so greatly stressed by Mr. Hanson had to do with the historic effect, and it has applied in the main to the negotiation and arbitration of new agreements, each contract that we negotiate will have a joint standing committee in it to dispose of controversies arising as to interpretation in an enforcement of each individual [3467] agreement.

Q. Have you concluded?

A. I think that ought to be enough.

Q. Can you tell us what it means?

A. What what means?

Q. What you've just said.

A. If it doesn't mean much strike it out. I don't care, it is immaterial.

Q. Now, in your opinion, Mr. Randolph, is bogus necessary today to maintain steady employment?

A. I would say so.

Q. Why?

A. It gives an opportunity to spread the work over a whole week instead of having it crowded into one night or two busy nights.

Q. Is it not a fact that there is a short supply of printers throughout the country today?

A. Well, there are some shortages in some places.

Q. Are there any surpluses in any place that you know of now?

A. Well, I can't say that there are any particular places where there are surpluses.

Q. Do you know of any city in the country where they actually adjust their work to the time specified in the contract?

A. Actually what?

Q. Adjust the rate of the regular situation holders to the [3468] time specified in the contract.

A. I don't understand that question.

Q. All right; let us assume that your contract provides for a 37½-hour week. Do you know of any city that is not

paying large amounts of overtime now to the regular situation holders on the basis of those contracts?

A. Well, I don't know as to whether they are or not.

Q. Have you any estimate as to the overtime now required to get out a newspaper, say, in the city of New York, or Cleveland?

A. No, I don't.

Q. Have you had any estimate as to the amount of overtime required to get out a newspaper in a small town?

A. I don't keep any records of that at all.

Q. What is the purpose of the overtime provision in a contract, Mr. Randolph?

A. The purpose of the overtime provision has always been to put a penalty on overtime and encourage the employer to hire enough men at regular rates to keep the force busy.

Q. Let us assume the employer is in one of those cities where there is a short supply of printers. Is the purpose of overtime there the same?

A. Well, of course, the union is not going to change its overtime laws or its contract provisions as to overtime because of a spurt of business, whether it is for a few months or whatever it is for.

[3469] Q. Is it not a fact that you purposely maintain a short supply so as to control the employment?

A. That is not so.

Q. Did you not testify in Baltimore, and I refer you to page 789 of the Baltimore record, as follows:

> "Bearing in mind that a trade union, a labor union has to exist by a relatively strong control of the labor supply, it is easy to see that with the destruction of 600 smaller unions, the opporunity for recruiting people to work in the larger centers would be magnified to the point where there would be little or no economic stability in the larger unions, with perhaps the exception of the very largest."

A. I think I so testified, but I don't see the relevancy of that to the question you asked.

Q. What did you mean when you said "a relatively strong control of the labor supply"?

A. Meaning that the printers should be in the main members of the union.

Q. Is it not a fact that as of today and for some years past the reproduction clauses in your contracts have re-

quired the employment of larger staffs than are necessary for the production of newspapers?

A. No, that's not a fact.

Q. Did you not testify last week that management arranges the [3470] shifts for its regular situation holders?

A. That's right.

Q. That being the case, then is it not a fact that the bogus requirement actually handicaps management in its efforts to arrange shifts to meet the ebb and flow of business throughout the week?

A. No, it doesn't.

Q. How do you account for the large accumulation of bogus on the hook throughout the country?

A. Because the employers generally refuse to hire men at overtime rates to produce it.

Q. Well, if they refuse to hire overtime rates to produce, then have you not answered the question, that that is not spreading employment?

A. No, the mere fact that for the last year or so there has been a vast volume of printing, as there has been all other types of production in the country and the fact that that extra production has used up the supply of printers, doesn't mean that we won't have a surplus the minute there is a little bit of a let-down. We will have a surplus. We can't hope to supply enough printers for every burst of business that the industry has, and then take care of them as we have to do without help from the employer when he lays them off.

Q. Very well. Do you think it is the obligation of the employer now, at this time, to employ printers in overtime work to [3471] reproduce this material at overtime rates?

A. A lot of contracts have a specific provision in them that he is not to hire them at overtime rates to do that.

Q. Do not most of your contracts have provisions in them that this reproduction shall be done at straight time rather than within a certain number of days?

A. They require that they are to be done within a certain number of days, and they usually have a provision that it is not required to pay overtime rates to do it. But the fact that he doesn't complete it within a certain number of days doesn't mean that the reproduction copy is thrown away. It is accumulated until there is a time, at straight-time rates, to do it, and that fact in itself helps to guarantee steady employment.

Q. What is the reason, then, for the provision that it shall be done in a certain number of days, when it cannot be done within that period?

A. Well, the whole history of the industry has been to provide for a certain number of days in which it is to be done, and naturally that would provide for the urge to regular employment instead of the employer saving it till next summer, to do it during the summertime, or the least busy season of the year. We couldn't hold printers around for months waiting for a chance to be employed.

Q. You will agree with me, will you not, Mr. Randolph, that at the present time it would be impossible in the larger cities [3472] of this country to reproduce this material within the time specified in the contract at straight-time rates?

A. No, I wouldn't agree with you on that.

Q. Why would you not?

A. Because I believe a lot of them are doing it.

Q. Well, do you not know in fact that there are large accumulations of bogus in practically every composing room in the larger cities of this country?

A. No, I don't know anything about that. It hasn't been brought to my attention.

Q. Hasn't this accumulation of bogus frequently been brought to your attention through publishers' efforts to get off the hook?

A. No, I can't say they have.

Q. Do you recall the Rochester case which was decided by the Executive Counsel?

A. Yes, I recall something about that question being raised in Rochester.

Q. There was an accumulation of bogus for months with the short supply of printers, as I recall. The local union insisted it should be kept on the hook, and the appeal was to the Executive Council, which sustained the local union, did it not?

A. I don't recall what the decision was, I just don't recall. I just recall the question was raised, but the matter of shortage of printers is ofttimes determined by the scale. People that [3473] can move around go to the place where they get the most money.

Q. You wouldn't say that Rochester had a substandard scale, would you, at the time the question was submitted to you?

A. I didn't say anything about it being substandard.

Q. Do you recall at the time of the New York agreement being renewed in 1947, there was a tremendous accumulation of bogus on hooks in all of the New York newspapers?

A. I am not familiar with that question at all, the local question.

Q. Do you not recall that one paper had such an accumulation that it appealed to have the bogus set at the old rates instead of the new rates in the contract?

A. No, I don't recall that question.

Q. What is your policy at the beginning of a new contract, when there is an accumulation of bogus?

A. As far as I know, I have not had that question raised.

Q. Well, let us assume, for instance, that a contract expires on December 31st, and the new contract, with the 20 per cent increase, goes into effect on January 1st; the contract provides that material must be reproduced within a certain number of days, but there are not printers enough to do it at straight time rates. Do you regard that accumulation as an accumulation which should be set at the old or the new rates?

A. It is a question that would have to be settled locally, that has not come up to the International Union.

[3474] Q. It did come up to you in the Rochester case, did it not?

A. I don't know, I don't know what the problem was there.

[3475] Q. That was one of the problems, the accumulation of bogus at new rates?

A. I don't recall it.

Q. How about Wilkesbarre, do you recall that?

A. No, I don't recall.

Q. You remember they had a problem of bogus at Wilkesbarre, don't you?

A. The only problem I recall was one over whether certain classes of work came within the definition of the contract.

As I recall it, both the local parties agreed to accept the decision of the council on that point.

Q. Could they have agreed to refer it to anybody else?

A. They could have.

Q. Let's take a newspaper that has three shifts of employees, day shift, night shift, and a lobster shift. The contract provides different rates for each shift, does it not?

A. Sometimes.

Q. Well, as a rule, in the larger cities?

A. As a rule.

Q. At what rates in those newspapers would bogus be reproduced?

A. It would be reproduced on the rate paid wherever it was worked on. A man is paid for the hours he works. He doesn't determine what he works on, the employer determines that.

Q. One failure to reproduce within the time specified by the [3476] contract is entirely due to the union's inability to supply sufficient men; nevertheless, that material is still required to be held on the hook, is it not?

A. I wouldn't agree to that statement.

Q. You would not?

A. No.

Q. Have you ever taken any action to take it off the hook under such circumstances?

A. You led off with a statement that it is entirely the fault of the union, that there is not enough men to do the work. I don't agree to that.

Q. Do you have enough men at any place in the United States now to supply the requirements of publishers at straight time rates?

A. I don't know.

Q. Do you not know in fact that you have not?

A. I don't know that we have or haven't. I don't keep track of the volume of work in each city in the country.

Q. Does the union charge any of its members in each composing room with responsibility for making certain bogus is reproduced?

A. Does the union what?

Q. Charge any of its members in a composing room with the responsibility to see that bogus is reproduced.

A. The chairman of the chapel is the one who is supposed to [3477] keep track of it.

Q. When does he do that, during his working hours, or otherwise?

A. It should be during his working hours, as part of the contract.

Q. What happens to this reproduced material after it has been reset?

A. It is usually discarded.

Q. Type is thrown into what they call the hell box, is it not, melted up?

A. That's right.

Q. Insofar as a newspaper is concerned, none of that reproduced material goes into its columns, does it, as reproduced?

A. I can't say that none of it is ever used. I would say it is usually not used.

Q. Mr. Randolph, what would you think of a requirement by management that your union contribute a certain amount of free service to it each week?

Mr. Van Arkel: I object to that.

Trial Examiner Leff: Sustained.

Mr. Hanson: I think it is comparable, Mr. Examiner.

Q. (By Mr. Hanson) Mr. Witness, have you and the other officers of the ITU filed the affidavits required by Section 9, subsection (h) of the Act, as a condition precedent to the utilizing of the provisions for designation of representatives, [3478] approval of the union shop, in the filing of complaints?

A. We have filed no affidavits.

Q. According to employer's Exhibit 85, Mr. Randolph, which is a reproduction of the contract provisions which the executive council has sent out to subordinate local unions, I call your attention to the third paragraph under jurisdiction, which reads as follows:

> "In the event of the introduction of any process, machinery, or equipment affecting composing room work as herein defined, not in use at the date this contract is effective, or any such process, machinery or equipment used as an evolution of or substitute for current processes, machinery, or equipment, all questions concerned with the method of operation and the complement of men required shall be determined by a commission made up of two representatives of the employer, and two representatives of the union, the fifth man to be selected by the four in the case of a deadlock. This commission shall have the power to investigate, hear evidence, and decide the method operation and complement of men for any above-mentioned processes or machinery or equipment. It is mutually agreed that in submitting this question to a fifth man, he shall be governed by the agreement of

the parties, that none but journeymen as defined in this contract shall be [3479] permitted to work on any such processes, machinery, or equipment, except as provided elsewhere in this agreement for the training of apprentices."

Mr. Van Arkel: I object, Mr. Examiner, on the grounds already noted.

Trial Examiner Leff: Overruled.

Q. (By Mr. Hanson) Isn't that provision designed to give you jurisdiction over employees without resort to the applicable provisions of the Labor Management Relations Act to determine their wishes in the matter?

A. No, it isn't. It's designed to have the employer train our people on the new machinery that is introduced.

Q. Well, let's assume that the employer has some people that are working on that new machinery now.

A. That will have to be worked out whenever we find such a place.

Q. How will you work it out?

A. I don't know.

Q. But not through the processes of the Board?

A. We don't have access to the Board now.

Q. Why don't you?

A. We haven't filed the affidavits.

Q. Do you recall the article by the Secretary-Treasurer of the International Typographical Union in the typographical journal wherein he committed the members of the executive [3480] council to file the necessary affidavits?

A. No, I don't.

Mr. Hanson: May I have just a moment to locate that, Mr. Examiner?

Trial Examiner Leff: Yes, we will have a short recess.

(Short recess was taken.)

Trial Examiner Leff: The hearing will come to order.

Q. (By Mr. Hanson) The Board's Exhibit 7-F, Mr. Randolph, is a typographical journal for September, 1947. The first article therein is entitled "Collective Bargaining Policy of the International Typographical Union." Do you recall having read that?

A. No, I don't.

Q. Do you know who wrote the article?

A. If it is the editorial, I assume the secretary-treasurer, the editor of the journal wrote it.

Q. I show that article and ask you to read it yourself the second paragraph on page 171. Have the affidavits mentioned therein been filed?

A. They have not.

Q. Now, I direct your attention to Article III, Section 1 of the General Laws on page 102 of Respondent's Exhibit 16, and ask you to read into the record the third full paragraph beginning on that page.

A. Beginning with the International Union?

[3481] Q. The International Union, yes, sir.

A. "The International Union and its local unions, and their officers will file any financial reports and affidavits required by law."

Q. I again ask you if you have filed any affidavits?

A. We have not filed any affidavits, and we do not believe that we are required to file them unless we want to use the Board, and we don't want to use the Board, so we are not required by law to file them, so we haven't filed them.

Q. In the matter of obtaining representation for employees on due processes, have you been advised that you do not have to use the Board?

A. I don't recall even asking the question.

Q. By what authority does the International Typographical Union assert jurisdiction over processes, machinery, or equipment which have been developed entirely independent of the union?

A. Well, I can't imagine any process being developed by the union. They are all developed independent of the union. I don't quite understand the question.

Q. Well, by what authority do you assert jurisdiction over employees who have not previously been included in a unit which the union represents for bargaining purposes?

A. Well, the question is ambiguous, somewhat misleading. We have organized employees on due processes, and then bargain- [3482] ed for them. We haven't had any new processes where we have used any authority on them. A labor union is a voluntary association of individuals trying to better their lots by organization.

Q. Have you considered the possible conflict between your proposed jurisdictional provisions and sections 8(b), 4 and 9(c) of the Act?

A. If we run across any situation where there is any conflict, we will consult or attorneys.

Q. I asked you if you have already considered?

A. We have not already considered any such particular question.

Q. Is it not a fact, Mr. Randolph, that this jurisdictional provision, or its equivalent, is a mandated must to your local unions in their negotiations with the publishers?

• • •

The Witness: Are you referring to—

[3483] Q. (By Mr. Hanson) Jurisdictional, new processes, machinery or equipment.

A. That you read out of the document submitted to the local unions, by the council?

Q. Yes.

A. It was submitted as suggestions for local unions to follow.

Q. Only as a suggestion?

A. Yes, and it so stated on the document.

[3484] Q. And are local unions free to negotiate that provision out of the contract with the publishers?

A. They are free to negotiate on such a provision, and when they do they are to submit it to the executive council for approval.

Q. Let us assume that they eliminate that provision. What is the policy of the executive council?

A. The executive council will determine that question when they get it.

Q. What do your constitutional laws provide on that question?

A. It provides local unions shall submit proposals to the executive council for approval before submitting them to employers.

Q. Well, I direct your attention, Mr. Randolph, to Article III, Section 12 of your general laws.

Trial Examiner Leff: What page?

Mr. Hanson: 104 of Respondent's Exhibit 16.

Q. (By Mr. Hanson) I ask you to read that.

A. Section XIII: "It is the unalterable policy of the International Typographical Union that all composing room work or any machinery or process appertaining to printing and preparations therefore belongs to and is under the jurisdiction of the International Typographical Union.

"Subordinate unions are hereby directed to reclaim

jurisdiction over and control of all composing room work or any [3485] machinery or process appertaining to printing and the preparations thereof now being performed by non-members."

Q. I ask you if under that provision a contract which did not contain the equivalent of the jurisdictional phrase which we have been discussing could be approved by the executive council?

A. That question would have to be decided by the council.

Q. Now, I turn your attention to Article II of the Constitution. It appears on page 5 of the same exhibit. I ask you to read Section 1 thereof.

A. Section 1: "The International Typographical Union shall exercise complete and unrestricted authority to define its jurisdiction; enact; enforce and amend as provided in its Constitution and By-Laws all laws for the government of the International union, its subordinate unions and its officers and members throughout its entire jurisdiction."

Q. Have any instructions been sent out to your local unions relieving them from the responsibility of compliance with Section 12 of Article III of the General Laws, or Section 1 of Article II of the Constitution?

A. Non-specific.

Q. Any in general?

A. Yes. The collective bargaining policy, the impact of the Taft-Hartley Law, that they all know obviously has to be considered in all questions of jurisdiction testified to at [3486] that time and again, and I will say further that the article in the Constitution had more to do with an attempted invasion of the jurisdiction of the ITU by other international unions in the A. F. of L., than it had to do with internal matters. It has been on the book for a great many years.

Q. Well, the blanket recognition of your ITU laws by employers is designed to achieve recognition of these jurisdictional claims, including Section 12 of Article III, is it not?

A. The ITU laws that we asked the employers to agree to, are the general laws, not the Constitution or By-Laws.

Q. Section 12 of Article III of the General Laws is one of those, is it not?

A. It is one of those. But I say again, wherever it may

be in conflict with the Federal-State laws, we have to settle that question when we reach it.

Q. I repeat the question so frequently asked, how will that issue of conflict be decided?

A. When we reach that conflict, we will then find out how to settle it.

Q. What methods now are set forth in your laws for the determination of such conflicts?

A. We have no procedure set forth in the laws to determine it.

• • •

[3487] *Redirect Examination.*

Q. (By Mr. Van Arkel) Mr. Randolph, there was some question raised in your testimony concerning a statement made while you were testifying in the injunction hearing at Indianapolis, when you testified in substance that any testimony which had been given by others inconsistent with the testimony which you gave, was inaccurate. In your reply to those questions, were you referring to the testimony in the injunction hearing at Indianapolis?

Perhaps the question is not clear, Mr. Randolph, let me first ask you this: were you present during the time that testimony was taken in the injunction case at Indianapolis?

A. Yes, I was, until Friday night.

Q. Was there testimony given in the course of that hearing with respect to your participation in negotiations with the American Newspaper Publishers Association at Indianapolis with the Chicago Newspaper Publishers Association at Chicago, and the Detroit Commercial Printers Association at Detroit?

A. Yes.

Q. And had you heard that testimony given?

A. Yes.

Q. When you stated that any testimony inconsistent with your testimony at Indianapolis was inaccurate, was that the testimony you were referring to?

A. Yes.

[3488] Q. Mr. Randolph, in the event a member of a local union is expelled or suspended by a local union, I believe you testified that there was an appeal to the executive council.

A. That's right.

Q. Is there an appeal by such a suspended or expelled member from the executive council?

A. Yes, appeals can go to the convention.

Q. Does any suspended or expelled member have that appeal as a matter of right?

A. He does.

Q. Is the same true with respect to an expelled or suspended local union?

A. Yes.

Q. Does the executive council have any power to take final action with respect to the suspension or expulsion of a member or local, or does that final power rest with the convention?

A. Final power rests with the convention.

Q. And does a suspended or expelled local also have an appeal as a matter of right, to the convention?

A. It does.

Q. During the time that you have been an officer of the International Typographical Union, Mr. Randolph, has any local union been expelled or suspended? Up to this time?

A. I didn't hear that.

Q. During the time that you have been an officer of the International [3489] Typographical Union, has any local union been suspended or expelled, up to the present time?

A. I believe some local unions have been suspended for non-payment of dues.

Q. Any that you recall since August 22, 1947?

A. I don't recall any.

Q. Mr. Hanson asked some questions, Mr. Randolph, with respect to the oath of membership required to be taken by members of the union, including foremen. Did that question arise in the course of the Chicago negotiations, in which you participated?

A. Yes, it did.

Q. Will you tell us how that arose?

A. In the Chicago negotiations, the employer stated that they were willing to contract for the employment of union members as foremen.

At that time I told them I wasn't sure whether that was against the law or not. They told me they were satisfied that they had a right to so contract. I then read to them the obligation provided for in the Book of Laws,

and pointed out the language of that obligation and told them so far as we were concerned, of course, any law that was in conflict with th law of the land was waived, but I didn't know whether the employers were aware of that, or if the charge might be made of discrimination because of the obligation.

After I had so pointed it out to them, they still thought [3490] they had the right to make such an agreement, and would do so.

• • •

[3491] • • • Q. In adopting the conditions of employment form, was it the intention of the executive council that any conditions of employment which might be adopted were to apply only to union members?

A. When the conditions of employment form was devised, its purpose was to state the conditions under which the members of the union would work.

Q. Is there any way in which the union might adopt conditions of employment which would apply to non-union members?

A. No.

Q. You testified, Mr. Randolph, that there was one occasion on which you had taken action to assure compliance with Article III. What was that occasion?

A. That was an occasion indicated by the exhibits put in evidence concerning San Francisco Typographical Union No. 18, the president of which was ordered to comply with the provisions of Sections 2 and 4 of Article III of the General Laws.

[3492] He did so comply.

Q. Has there been any other occasion since August 22, 1947, when the executive council has been required to take any action to secure compliance with those provisions of the laws?

A. No.

• • •

[3494] • • • Q. Mr. Hanson aske certain questions, Mr. Randolph, with respect to the policy of the International Union not to arbitrate matters covered by the General Laws of the union. In the event of disagreement between a local union and an employer group with respect to the meaning or application of a provision of the General Laws, has there been anything in the policy of the International Union, or, to your knowledge, of any of the

locals, to prevent discussion of such disagreements between local unions and employers?

A. No, they necessarily are discussed if anybody finds any fault with the way matters are proceeding in the shop, that may be applicable to such a law.

Trial Examiner Leff: Do you make any distinction between disputes based upon the applicability of the General Laws and disputes concerning the interpretation of General Laws?

The Witness: Mr. Examiner, the General Laws, if you will read them carefully, have been on the books for a great many years, and they apply to certain working conditions, certain rights of the men, put on subs, priority rights, and things of that character. They also provide that no workday should be more than eight hours, and certain proposals that, or certain laws that require the union to put in contracts, certain regulations.

[3494] When the General Laws are applied to a contract condition, no contract will be approved that has within itself, a clause that is contrary to those directions in the General Laws. And some contracts are silent on the matter that is mentioned in the laws, and they just refer to the law as being the thing that governs. Others will set out a provision that complies with the laws, but in different language, such as the reproduction law.

Most contracts that have reproduction clauses go into more detail to specify what constitutes a local or national advertiser.

Some contracts provide for a lesser number of hours than eight hours per day. Some contracts specify double price for overtime instead of time-and-a-half.

Those matters are all acceptable. It is impossible to testify here to all of the various, numerable questions that have to be considered as to whether a contract is in compliance with the law or not.

Trial Examiner Leff: That is not exactly my question. Suppose a dispute should arise in a shop, a dispute over, let us say, reproduction, and the question comes up as to whether the reproduction rule in the general law should be applied. Is that a matter that may be submitted to arbitration, to the joint standing committee under the contract?

The Witness: It has always been so submitted as to whether [3495] a certain ad is subject to reproduction.

Trial Examiner Leff: That you say may be submitted to the standing committee?

The Witness: Well, it generally is.

Trial Examiner Leff: Suppose a matter is before the standing committee, and the further question arises as to exactly what the meaning of the reproduction clause is, may the standing committe determine that?

The Witness: It has determined it because—the only question is, shall this be reproduced or shall it not? That question has been determined by standing committees.

Trial Examiner Leff: That is where there is no dispute as to the meaning of the law?

The Witness: Well, there is a dispute as to the meaning.

Trial Examiner Leff: There is a dispute as to the application in that situation?

The Witness: I don't understand the difference between the application and meaning.

Trial Examiner Leff: Perhaps you can clarify it.

Mr. Van Arkel: It seems to me the witness has fully answered, Mr. Examiner, to determine in a particular instance whether or not the particular clause is ambiguous or whether it is to be applied to a particular set of facts; there are two different ways of stating what seem to me to be exactly the same thing. The question necessarily must be whether or not [3496] that section covers the situation proposed.

Trial Examiner Leff: Am I to understand, then, suppose the section is not ambiguous in any way, but there is no difference of opinion as to its interpretation, but a dispute arises which is generally covered by the subject matter, by the section as far as the subject matter is concerned, that such a dispute may be arbitrated, is that right?

The Witness: That's right.

Trial Examiner Leff: Please proceed.

Q. (By Mr. Van Arkel) Are there any types of disputes, Mr. Randolph, which are not subject to, in the first place, discussion between the local unions and employers, with whom they may or may not have agreements?

A. All disputes are subject to discussion. The question, for instance, if the employer would say that time-and-a-half would not be paid for overtime work, and there

was nothing in the contract to the effect that time-and-a-half would be paid; his acceptance of the law would obligate him to pay time-and-a-half for overtime.

If he didn't pay, we wouldn't argue about that. We wouldn't say we would arbitrate whether the law means you should pay time-and-a-half or straight time. Where the law says he shall pay time-and-a-half for overtime work, that's the basis of operation.

If there is no contrary provision in the contract, that [3497] would be it, he would discuss it, yes.

Inevitably, it would require discussion, if there was any disagreement, but the time-and-a-half rule would be applied without question.

Q. In fact, are most disputes arising between employers and local unions settled as a result of such discussion?

A. Yes, they are.

Q. And how do such matters come before you in the event they are not settled at the local level? By you, I mean the International Union.

A. Where there is an approved contract in existence, the local union may not under the law take any action to strike or change the conditions, which would result in a strike, without first having the approval of the executive council. If the local union wanted the protection of the ITU to carry out some provision of the contract or law, it would have to make its case to the executive council.

If the employer thought that the union was wrong, he could require the executive council to determine the obligations of the local union.

Q. Are those the few means by which these matters come before you?

A. Yes.

Q. Do you enter any of these disputes before they come to you in this fashion?

[3498] A. No.

Q. In either of those fashions?

A. No, we don't.

Q. Mr. Randolph, if you can, would you tell us what types of problems would be handled under the joint standing committee procedure in agreements?

A. Well, all matters of interpretation or application, enforcement of the local contract, except those matters that are specified in the contract as not being subject to that determination.

Q. I take it, it is your testimony that the exclusion from the joint standing committee procedure does not preclude their discussion, and if possible, amicable settlement between the local union and the employer?

A. It does not.

Q. Since August 22, 1947, have you had called to your attention in any instance in which any non-union member has been discriminated against with respect to hire or tenure of employment as the result of any policies followed by the International Typographical Union or its locals?

A. No.

Trial Examiner Leff: Since August 22 have you had called to your attention any incidents where a non-union employee was employed in a union shop?

The Witness: Two such instances mentioned in the Indianapolis [3499] testi ony, one, Grand Rapids, Wisconsin—

Mr. Hanson: Wisconsin Rapids.

The Witness: Wisconsin Rapids, Wisconsin, wherein a small newspaper office, the employer hired a non-union man and made him foreman and everybody quit. Most of them left town.

Q. (By Mr. Van Arkel) I believe you testified at Indianapolis that that was without the knowledge of the International Union until some time after it had occurred, Mr. Randolph?

A. Yes, I heard of it from an outside source, inquired about it, and the local officers simply told me the facts as I have stated.

Another instance was in San Antonio, Texas, where a small commercial office, a non-union man was hired, and in that instance the president of the local union inquired of me as to what their rights were in the situation.

I told them to look into the matter themselves, and it might be that the man would be a good man to join the union, and might want to join the union.

Later on I was advised that he had made application to the union.

Q. Do you know whether or not he has since become a member, Mr. Randolph?

A. I haven't followed it through, I assume he has.

Q. In reply to a question of Mr. Hanson, you stated that the jurisdiction clause—

[3500] A. May I say one more word on the other question? It didn't occur to me at the time that I testified, but the situation in Abilene, Texas, would amount to that, where they employed non-union people on teletype center tape punching devices, and later all of them became members of the union.

The same happened in Corpus Christi as regard tap-punching devices.

Mr. Sinsheimer: Can we place the time for this?

Q. (By Mr. Van Arkel) Do you know about when those incidents occurred?

A. Abilene, Texas, is a matter of record, as to the date of the strike. The Corpus Christi matter was some time last fall.

Q. Were these strikes the result of the hiring of non-union men?

A. No, they were the result of being unable to agree on wages. They had all become members of the union before the strike.

• • •

[3501] • • • Q. Mr. Randolph, in response to a question of Mr. Hanson's you testified that the purpose of the jurisdiction clause was designed to induce the employers to train—I believe I quote from your testimony—"our people on new processes that might be introduced." Would you care to amplify or expand that answer?

• • •

A. It applies to journeymen and apprentices. The law is, of course, very old on the books and before the Taft-Hartley law it applied to members of the Union, and now it applies to journeymen and apprentice printers.

By Mr. Van Arkel:

Q. On your direct examination, Mr. Randolph, you testified with respect to the wage problems which were raised by the question of jurisdiction. Do those problems equally apply to the answers which you gave Mr. Hanson [3502] on this matter?

A. I don't quite understand the question.

Q. On your direct testimony we discussed the problems with respect to the wage scales of journeymen and apprentice printers which were caused by introducing low-paid competitive processes. I was merely asking whether or not your answers to that line of interrogation

applied also to Mr. Hanson's questions this morning with respect to the matter of jurisdiction.

• • •

Q. In reply to Mr. Hanson's question, Mr. Randolph, I believe you stated that it was your desire that journeymen and apprentice printers perform work which competed with standard methods of composing room operation. Is that correct?

• • •

[3503] • • • A. In substance.

• • •

[3504] • • • Q. What factors led the Union to request the inclusion of the jurisdiction clause in agreement which Mr. Hanson questioned you about?

A. It is a matter of the continuity of the Union, that it is necessary in order that the craft as a whole be covered as a craft, and not have the trade—as we know it, have learned it and are teaching it—been cut up into various individual channeled jobs that could be given to one particular group of people who would not be required to learn the whole trade.

• • •

Recross Examination by Mr. Simsheimer.

Q. Mr. Randolph, I believe you have seen the postcard bulletin which is marked number 109, as Board's Exhibit No. 73-B?

A. Yes.

Q. That was approved and issued about January 6th, was it not?

A. Yes.

Q. And at that time you did have figures separating the conditions of employment imposed upon newspaper publishers from those which were imposed in commercial printing shops, did you not?

[3505] A. This particular postcard does make a separation.

Q. And at that time this postcard indicated that 12r local unions were operating under conditions of employment approved by the Executive Council, that 98 of these were news—that means newspaper, does it not?

A. Yes.

Q. And 81 were job. That means commercial printing jobs, does it not?

A. Yes.

• • •

[3506] Q. Since the postcard bulletin number 73-B was issued the number of local unions which are operating under conditions of employment approved by the Executive Council at both newspaper publishing establishments and job printing shops have increased, have they not?

A. Yes.

Q. Now, of the P(6)(a) agreements entered into by the local unions of the International Typographical Union, were some of those with newspaper publishers?

A. I think so.

Q. And some were with commercial job shops?

A. I think some of them had both covered by the same agreement.

Q. What do you mean some had both covered by the same agreement?

[3507] A. P(6)(a) agreement has a place for booking job scale on it, and also a place for newspaper scale, and as I recall it, some of the local unions have the same scale for both booking job and the newspaper, and the contracting party is the same firm.

Q. In any event, Mr. Randolph, there have been P(6)-(a) agreements entered into between local unions and publishers?

A. I think we reduced one or referred to one here as Enid Typographical Union. I think that was with a newpaper.

Q. You indicated there were, as of April 21, six other agreements between local unions and some one that had been entered into, all of which were terminable upon 60 days notice. Is that right?

A. That is my recollection.

Q. And that two of those were with newspaper publishers at Columbia Typographical Union No. 34, and also with Montgomery Typographical Union No. 222. Is that right?

A. I think that is right. Yes.

Q. And those two are in evidence as Board's Exhibit 78-A and 78-B.

(Witness examines documents.)

A. They appear to be those two agreements.

Q. Have you been able to account for the increase of [3508] two contracts between March 11, your testimony at Indianapolis, and April 21, that you testified to here, that is that there were four on March 11 and six on April 21st? Have you ascertained what those other two were?

A. No, I haven't.

Q. Were those two agreements entered into in the commercial printing field?

A. I wouldn't know.

Q. When did you approve the Commercial Printing Agreement entered into between the New York local and the Commercial Printers in New York?

A. I think it was about the second week in March. I don't remember the date.

Q. Was that before or after you testified at Indianapolis?

A. It was after I testified in Indianapolis.

Q. Then that might well be one of the contracts that you referred to.

A. No, I don't think it is. That list of unions is made up of contract departments there, does not list them until they come into that department. The New York agreement didn't come in there until later.

Q. About when did it come in?

A. After it was consummated.

Q. Was that before or after April 21st?

[3509] A. It was before April 21st, I think. I don't recall these dates. I didn't make it a point to try to remember them.

Q. Could the other contract that was approved between March 11 and April 21 have been the Detroit Commercial Printing Agreement?

A. You say "the other". I don't think that one that you mentioned was one of them and I don't think that Detroit was the other. Personally, I think that was a clerical error in the two columns of figures, as I stated the other day.

Q. That is, you think that what you did was to transfer two P(6)(a) agreements from one group to the other. Is that it?

A. I think the Clerk that made it up got two off of one column on to the other and corrected it.

Q. With respect to the use of the words "Normal Account" in the New York Commercial Printing Agreement, I believe you testified that that language was the publishers language. Is that right?

A. In the New York—

Q. The Commercial Printers language.

A. Yes.

Q. Had you requested a provision with respect to "struck work" or "sub-standard work"?

[3510] A. No, I hadn't.

Q. That is the local union had not requested some provision relating to that problem?

A. I don't recall what the local union had requested. When I got in there I requested them to put in writing what they would do along that line, and that is what they did.

Q. It was following your request to them that they proposed that language. Is that it?

A. My request to them that they compose and present to us a proposition, and that is the proposition that they did compose and present to us.

Q. In other words, you asked the printers to present to you some clause relating to the subject of struck work. Isn't that right?

A. That is right.

[3514] * * * Q. You testified with respect to teletypesetters at Abilene, Texas, being taken into the Union. When were those persons admitted to membership in the Union?

A. Some time before the strike. I don't know when.

Q. When were they hired by the publisher?

A. I can't tell you that. I don't know.

Q. Was it this year?

A. I don't know.

Q. Last year?

A. When I say I don't know, I don't.

Q. Do you know whether they were taken into membership in the Union this year?

A. I still don't know.

Q. Last year?

A. I still don't know.

Q. The year before last?

A. I don't know.

Q. In other words, you don't know just—

A. That is just exactly what I said; I don't know.

[3515] Q. Is that also true about Corpus Christie?

A. Yes.

Q. In other words, you don't know whether they were admitted to membership since August 22, 1947 or before, do you?

A. No, I don't.

Q. It is correct, is it not that there are quite a number of non-union printers in the United States, Mr. Randolph?

A. I wouldn't know anything about that.

Q. You wouldn't know whether there were a number or whether there were a few. Is that it?

A. I know there are some. But the number I am frank to say I do not know.

* * *

Q. Did the local union in Boston follow ITU policy?

A. As far as I know.

Q. And the local unions at Carbondale, Murfreesboro and Herrin?

A. So far as I know, they did.

[3516] Q. And also at Washington, D. C.?

A. Yes.

Q. Is Mr. Kirkpatrick still an International representative?

A. Yes, he is.

Q. Have the local unions at Lawrence, Brockton, New Bedford, Manchester, and Meriden followed ITU policy?

A. So far as I know they did.

Q. Where an employer has put up conditions of employment satisfactory to the Union in all cases operating under the general laws of the International Typographical Union?

A. So far as they are not in conflict with the law I would say they are.

Q. In how many instances, to your knowledge, has an employer put up conditions of employment?

A. The only ones I recall amount to the newspaper and publishers in Philadelphia and Houston, Texas. That is all I recall. As I say, I am not familiar with the sta-

tistics on that. It is in the contract department. But I do recall those two.

Q. And the Union there is operating under the wage scales set forth in those conditions. Is that it?

A. It is working at the rates specified.

Q. And otherwise operating under the general laws of the ITU?

[3517] A: No. They are working at the rate specified by the employer. As to any other matters I am not informed. I only assume that our people will live up to their laws insofar as they are not in violation of the state or Federal laws.

Q. Normally you expect your people to live up to the general laws of the union, do you not?

A. I would say this, that there has been no controversy in either of those two towns about the general laws.

Q. And so far as you know the general laws of the Union are being followed?

A. So far as they are not in conflict with Federal or state laws.

Q. When there were disputes over reproduction submitted to arbitration some years ago, were those disputes over whether there should be a reproduction clause or over some provision in the reproduction clause?

A. Over some provision in the reproduction clause.

Q. You have never submitted to arbitration, then, the subject of whether or not there should be a reproduction clause in a contract?

A. We have not.

* * *

[3525] * * * *Redirect Examination.*

Q. (By Mr. Van Arkel) Now, Mr. Randolph, since you last testified here have you had an opportunity to examine certain testimony which was given by Mr. George N. Dale concerning meetings with you at Indianapolis in September of 1947?

A. Yes, I have.

Q. Have you also had an opportunity to examine certain testimony given by Mr. John O'Keefe concerning your participation in certain negotiations at Chicago in November of 1947?

A. I have.

Q. And have you also been able to examine certain testimony of Mr. Applegarth at Detroit, Michigan concerning certain meetings in which you participated in November of 1947?

[3526] A. I have.

Q. Now, Mr. Randolph, throughout that testimony the witnesses in one or another form of words at various places ascribed to you the statements that in effect the International Typographical Union was going to maintain a closed shop. Did you use that expression during any of those conversations?

A. At no time did I ever demand or suggest a closed shop. It has been repeatedly stated by the three gentlemen mentioned that I had outlined a plan whereby we were to retain or attain the closed shop as part of a three point program. That is not true. At no time since August 22, 1947 has the International Union or any local union attempted or suggested or requested a closed shop. The preparation of Form P6-A that has been so much in evidence was for the purpose of protecting the union in such degree as it may be legally protected in matters of union security and again I say that at no time did I ever mention that the union was trying to maintain or attain a closed shop.

Q. During these conversations, Mr. Randolph, was there any discussion of the right of union members not to work with non-union men?

A. It was explained to the Chicago group of publishers and the Detroit group of publishers and any other group to whom I have talked that the I.T.U. was interested in maintaining [3527] all the protection possible and that we were interested in maintaining the right of our members to refuse to work under any condition not satisfactory to them, among which conditions would be the right to refuse to work with non-union men or on non-union product or struck work and to maintain the jurisdiction of the union and thereby preserve the job protection of our members.

Q. Now, Mr. Randolph, I would like to direct your attention to certain testimony given by Mr. Dale in this proceeding, with particular reference to some discussions concerning the so-called six point program of the execu-

tive council during 1944 and early 1945. Have you examined that testimony of Mr. Dale?

A. Yes, I have.

Q. Would you like to amplify or correct that? Perhaps you might look as well at page 216, 218 and 220, Mr. Randolph, of that testimony.

A. I would first like to make a statement concerning the discussion had in Indianapolis on September 25th or 26th, 1947, or 26th and 27th, I forget which, at which time there was a meeting held and attended by a group of representatives of the special standing committee of the American Newspaper Publishers Association, including Mr. Dale as chairman, and the executive council of the International Typographical Union.

[3528] The written documents pertaining to that meeting I understand have been put in evidence heretofore, but Mr. Dale testifies considerably concerning that meeting. There are several points I would like to make about it.

The special standing committee of the A.N.P.A. has never had any contractural relations with or through the executive council of the International Typographical Union except during the years from 1901 to 1922.

During those years the two organizations prepared and maintained an arbitration procedure acceptable to both the national organizations, which was available to local unions and local employers only in the event that such local bodies would sign an individual arbitration agreement embodying the right to use that international arbitration agreement. It was always considered a local prerogative as to whether or not that machinery of arbitration would be used.

That arbitration agreement provided for local arbitration on a restricted basis. The laws of the International Typographical Union, were never subject to arbitration and they we reoperative specifically by mention in five year periods. For instance, the arbitration agreement from 1902 to 1907 provided for the laws of 1902 or 1901, I can't say which, to be not subject to arbitration and were, therefore, operative during that period of five years.

The arbitration agreement in effect from 1907 to 1912 [3529] mentioned the laws of 1906 or 1907, I am not sure which, as being not subject to arbitration.

The agreement in effect from 1912 to 1917 likewise provided for the non-arbitrability of the laws of 1912 or 1911.

The arbitration agreement in effect from 1917 to 1922 provided that the laws of 1916 should not be subject to arbitration.

Each of these agreements also provided that any laws adopted by the I.T.U. subsequent to those dates, union laws which were not subject to arbitration, would not be in effect until approved by the international arbitration board. That, of course, resulted in a gradual decrease in the use of the international arbitration agreement. There were very few unions even using it in 1922, when the American Newspaper Publishers Association standing committee refused to renew it unless the union laws would be subject to arbitration.

No arbitration agreement has been in effect since 1922 but subsequent to its expiration date the special standing committee of the A.N.P.A. and the executive council of the I.T.U. took action maintaining the use of the expired agreement should local parties desire to uset it and the procedure of making contracts under that agreement was that the laws of the union of the year in which the arbitration award was made or arbitration procedures begun would be laws that were not arbitrable during the life of that arbitration award [3530] on the contract adopted under the control of the arbitration machinery.

That is, briefly, the entire official contact between the A.N.P.A. and the I.T.U. At no time was either the I.T.U. or the A.N.P.A. authorized to make contract commitments on the part of the local people, but in the preparation of matters subject to arbitration the local parties would prepare their proposals and if they were to go into arbitration they would forward these proposals to the chairman of the special standing committee of the A.N.P.A. and the president of the I.T.U., whose joint duty it was to go over them and eliminate as non-arbitrable those matters that were already provided for in I.T.U. laws.

The proposals those screened would be returned to the local parties and the matters determined not to be arbitrable were not arbitrated. There were some provisions that these two officials would order inserted in any award that might be made because they were such as were provided for in I.T.U. laws.

Again I say that the sole official contact, even including the meeting in September 1947, was one for arbitration only and that means the maintenance of an arbitration agreement and arbitration machinery for use by local parties having full autonomy.

The meeting in September of 1947 was the result of a [3531] statement I made at our convention that the A.N.P.A. did not have a committee that could meet with responsible officials of the I.T.U. to discuss matters of national interest and even make recommendations to publishers concerning a desired course of action.

* * *

[3536] * * * Q. Mr. Randolph, I would like to direct your attention to page 194 of that transcript. I direct your attention to lines 7 to 10 on page 194 as follows:

"In the course of your duties do you have occasion to seek contracts between publishers and the locals of the International Union?

"A. Yes. Our office serves as a clearing house", and so forth.

Mr. Van Arkel: Now, can we agree that that word should be "see"?

* * *

[3537] * * * Mr. Van Arkel: I am real confident that that is what he testified to from the context; that he said he saw the contracts.

Mr. Hanson: "See" is the word.

Mr. Sinsheimer: That is what Mr. Van Arkel wants corrected, from "seek" to "see".

Mr. Hanson: "See" is right.

Mr. Sinsheimer: Then we are in agreement that the record should be corrected to read "see" instead of "seek".

Mr. Van Arkel: Yes.

Trial Examiner Leff: Do you want to see the transcript?

Mr. Hanson: No, "See" is right. "Seek" is wrong. That is one time Mr. Randolph and I can agree.

Q. (By Mr. Van Arkel) Now, Mr. Randolph, did I understand your testimony correctly here that the laws of the International Typographical Union have at no time been subject to arbitration?

A. That is correct.

Q. Now, Mr. Dale testified at pages 218, 220 and following concerning a tradition of employers recognizing the laws of the International Typographical Union as covering those matters not specifically covered by the agreement. Could you just briefly tell us what that tradition has been on the [3538] inclusion of such a clause in agreements?

A. It has been historic that such a clause has existed in the several arbitration agreements that have been in effect between the A.N.P.A. and the I.T.U. beginning with 1901. Prior to 1901 there was no arbitration agreement of any kind in effect between these two bodies.

Q. And, therefore, no such clause contained in any agreement?

A. That is right. Well, so far as local arrangements were concerned they did not begin until about 1886 and the history of our organization is one whereby the laws of the union determined what constituted a union shop.

When I say "union shop" it is not what is considered by the government now to be a union shop. In our parlance the union shop was always synonomous with closed union shop. In fact, in the early days the closed shop was meant to be such a shop as the union would place a bar against to prevent union men from working in there, it was closed to union men and that word has been completely turned around over a period of years and it became then,—the closed shop became synonomous with union shop and meant that it was a shop in which only union men worked and now since the government has put out a new definition of the words "union shop" we have to watch our language from now on out.

* * *

[3539] * * * Q. (By Mr. Van Arkel) Mr. Randolph, I would like to direct your attention to page 218 of Mr. Dale's testimony, where he said that the union was taking the position that laws not yet enacted should also be put into the agreement.

Has that at any time in the past been the position of the International Typographical Union?

* * *

The Witness: At no time has that been the case.

Q. (By Mr. Van Arkel) Would your answer be the same to a similar statement by Mr. Dale at page 220 of the record, lines 4, 5 and 6?

A. My answer would be the same with respect to that point; and Mr. Dale testified to the contrary concerning a six point instruction to local unions concerning the operation of the international arbitration agreement in use by local unions.

[3540] * * * Trial Examiner Leff: On the record. Did you complete your last answer?

The Witness: No. I wanted to refer to that six point program which has been testified to and say that it was a program provided by the executive council of the I.T.U. for guidance of local unions in case they wanted to use the expired arbitration agreement in connection with local contracts. It was issued because of the constant restriction actually being placed upon matters that could be arbitrated.

We had, as Mr. Dale testified, several conferences between the special standing committee of the A.N.P.A. and the I.T.U. We were not able to agree on the joint statement as to what was arbitrable and what was not. The publishers had taken unilateral action on that point with regard to vacations with pay and provided instructions to their people that vacations with pay were not a subject to be arbitrated in the contracts.

The union thereafter adopted a law that where vacations with pay were in contracts they were not to be arbitrated out. That method of tightening up the things that were of [3541] interest to either party resulted in that six point program, which was applicable only to the international arbitration agreement if used. It did not provide that laws not yet adopted would become effective when adopted. It provided that if an arbitration award was to be rendered it would be for a calendar year. The laws of the union in effect at that time would have to apply for that calendar year.

The laws of the union begin as of January 1 and, therefore, the laws were well known. In fact they would have been known from and after the preceding August. So that the union laws that would affect any arbitration award were well known and not in effect until the beginning of the calendar year for which the union provided that an arbitration award if rendered would be effective.

I might say further that that plan was never used and that shortly thereafter the executive council decided that the relations between the A.N.P.A. and the I.T.U. on arbitration were so unsatisfactory as to make it undesirable and the executive council then took action instructing local unions that the international arbitration agreement which expired in 1922 was no longer available for use by local unions.

Q. (By Mr. Van Arkel) Now, Mr. Randolph, at page 244 of the transcript Mr. Dale testifying concerning those meetings stated that:

[3542] "The sixty day cancellation clause was explained by him"—that is you—"as a means by which the executive council could immediately terminate a contract in a case where the closed shop was not observed in employment by the publisher."

Did you make any such statement?

A. No, I did not. The executive council at no time would terminate any local contract as stated by Mr. Dale.

Q. Was there some discussion concerning the circumstances under which a sixty day cancellation clause might be used by local unions?

A. There was considerable discussion about the proposed indeterminate contract which could be cancelled by either party on sixty days notice. So far as the members of the executive council were concerned, we never discussed it from any other angle but the angle of an indeterminate contract, cancellable for any reason by either party of the contract.

Q. Was any statement made that such contracts could be immediately terminated where the closed shop was not observed in employment by the publisher?

A. No, we never did make any intimation that the union was insisting on any closed shop.

Q. Now, at page 245 Mr. Dale testified:

"In an expression of our opinion as members of the committee to the effect that that amounted to a sixty day con- [3543] tract our people across the table and the executive council did not dispute that fact."

Is that statement accurate?

A. No, it is not. We disputed that fact specifically numerous times during the conversation.

Q. Now, I note that Mr. Dale uses the expression "closed shop", for example, on page 248, page 250, page

251 and the like. I believe you have already testified, Mr. Randolph, that neither you nor the executive council stated that that was one of your purposes during these meetings.

A. That is right.

Q. Now, at page 307 Mr. Dale testified that:

"Yes, that policy was announced in press reports and in the International Typographical Journal and otherwise to the effect that the I.T.U. had promulgated a no collective bargaining and a no contract policy, which was notice to A.N.P.A. to that effect."

Do you have any comment to make with respect to that, Mr. Randolph?

A. The I.T.U. did not promulgate a no collective bargaining and no contract policy.

Q. Now, Mr. Randolph, I should like to direct your attention to the testimony given by Mr. O'Keefe, particularly his testimony on January 13, 1948, dealing with the meetings which you had with the Chicago Newspaper Publishers Associ- [3544] ation at Chicago.

[3545] • • • Q. (By Mr. Van Arkel). Mr. Randolph, I direct your attention to the testimony given by Mr. O'Keefe at page 656 of the record, in which he attributed this statement to you:

"He said, 'We intend to pay no attention to any of these charges, even though complaint is sustained by the Board and the courts uphold them.' He said, 'We are not going to pay one bit of attention to any action taken as a result of these charges.'"

Was that statement made by you?

A. No.

• • •

Q. (By Mr. Van Arkel) Mr. Randolph, was a stenographic report taken of these meetings?

A. No, none were taken.

Q. Is there, to your knowledge, any way in which Mr. O'Keefe might have had in his possession verbatim notes purporting to quote what you said?

[3546] A. None.

Q. Now, was anything similar to the statement which I have just read made by you during these conferences?

A. I cannot say even similar to that.

Q. Mr. O'Keefe further quotes you as saying:

"He said we expect there is little for us to be had out of the government, anything but a favorable decision. He said any decision would be ignored. He said he wanted no part of the NLRB, didn't need the NLRB."

Was that statement or anything similar thereto made?

A. That statement was not made; and I explained at that meeting, as I have many times, that the I.T.U. does not want to use the National Labor Relations Board nor the Taft-Hartley law for any purpose.

Q. Then Mr. O'Keefe states at the bottom of the page:

"He said, 'We have got now what we intend to keep, courts or no courts, Congress notwithstanding.'"

Did you make that statement?

A. I did not.

• • •

[3553] • • • Q. (By Mr. Van Arkel) Did you at any time refer to these three matters as your objective, Mr. Randolph?

A. No.

• • •

[3554] • • • Q. (By Mr. Van Arkel) At page 671, Mr. Randolph, Mr. O'Keefe states that after Mr. Garrison had made a certain proposal you said:

"We don't quarrel with your phraseology. We just don't believe it."

"We accept it as an attempt on our part to work up to a full proposal."

• • •

Mr. Van Arkel: Mr. Examiner, I am informed that counsel are willing to agree that the word "our" appearing on line 22 of page 671 should be "your".

Mr. Sinsheimer: That is correct.

Q. (By Mr. Van Arkel) Mr. O'Keefe testified at page 671 that you said, Mr. Randolph, that:

"Section 52 of the proposal appears to be an effort on our part to make a contract that would be irrevocable and for a definite period of time."

[3555] Do you recall any such statement being made?

A. I can't say that I said that because I don't remember what Section 52 was or what he refers to when he makes that statement. It was pointed out to them that we were not desirous of making a contract for any period of time that could not be cancelled by either party on sixty days notice.

Q. At page 672 Mr. O'Keefe testified that you said: "The language is for the purpose of relieving the union from acts of individuals who will keep on doing what they ought to do because of the ITU and it is not in the cards that we will take any contract willy-nilly. It throws industrial relations into the courts rather than into the hands of responsible parties around the table."

Was any such statement made?

A. That particular statement was not made but there was a statement by me to the effect that we did not want to have a contract that would end up in the courts as to interpretation or enforcement and we did not want to resort to the courts for a matter of damages or other matters, such as we had always settled between ourselves.

Q. At page 673 Mr. O'Keefe testified that you:

"Again repeated Conditions of Employment amounted to a document under which the local union is responsible to the International Union. He said they held the local union responsible and he said that would be just as valid an [3556] agreement as any ever reached by any local union."

Was any such statement made?

A. No. I was discussing the Conditions of Employment form and I did not say that that was as valid an agreement as any other. The Conditions of Employment form was devised to provide the conditions under which our members would work. I explained that the local union could not adopt those conditions without approval of the executive council of the ITU and that once adopted they could make no change in them without the approval of the executive council and thereby a condition of stability was created.

Q. At page 674 Mr. O'Keefe testified that you said:

"The other unions are in our hands and will do just what we want them to do."

Was that statement made?

A. No, but I did point out to them that the wages and conditions that were agreed to between the publishers and ITU locals were also granted to other locals.

Q. By that do you mean locals of other unions?

A. In the printing trade, yes, and that the matter of granting or not granting what was negotiated by the Typographical Union was a matter that was within the publishers' hands, not ours.

Q. Then again at page 674 Mr. O'Keefe testified that you:

"Suggested that what we would do then would be to call [3557] in the ITU to interpret the relations of the local union. He said, 'All of these years that system has been in vogue and it pays us to have it stay there.'"

Was any such statement made?

A. There was some discussion as to what the ITU would do to hold the local union to the obligations specified in the Conditions of Employment and it was pointed out to them that the ITU could hold local unions to those obligations because they were assumed with the consent of the executive council. It was also pointed out that over the years any contract that had been approved as being in compliance with our laws was subject to the particular ITU law which provides that an employer having an approved contract may require the executive council to determine the obligations of the local union on matters that are not subject to arbitration locally through the joint standing committee.

Q. Again at page 674 Mr. O'Keefe testified that you said:

"No one kicked before the Taft-Hartley law. Florida and other states went along under Conditions of Employment before the Taft-Hartley law.

"Now, since the Taft Hartley law", he said, "every one dropped it down their throats."

A. It is not an accurate statement.

Q. Do you recall what, if anything, was said on that matter?

[3558] A. Yes. It was pointed out to them that the Conditions of Employment form was not new and that it had been in use in Florida and Arkansas without objection by the employers, but that since the Taft-Hartley law was adopted and our announced plan to use the Conditions of Employment form nationally, that the objections of the publishers were being voiced.

[3559] Q. At page 696, Mr. Randolph, Mr. O'Keefe testified that you said, "I think you are trying to take a side road. This comes up in many negotiations. There is only one place where they won't work and that is in our union. We won't take side roads. That is the way the I.T.U. operates."

Was that statement made or, if not, would you tell us what was said?

A. That is not an accurate statement. It refers to the proposal of the Chicago publishers to leave certain matters to the Chicago Federation of Labor, Executive Committee. I did state that we were bargaining with our employers and we were not taking side roads by way of referring matters to the Chicago Federation of Labor, that what we had to do we would do with the employers and not involve their organization.

• • •

Q. At page 697, Mr. O'Keefe quotes you as saying, "We already have these things which we will not give up for any reason: (1) closed shop; (2) struck work, and so forth."

Was that statement made?

A. No.

Q. Was anything said on that subject?

A. I pointed out to them that there were five objectives that the union was trying to reach, and I did not list No. 1 as closed shop. We stated that we were anxious to secure all the protection that the law afforded us, that we wanted to preserve the right of our people not to work with [3560]non-union men and secondly, wanted to preserve whatever right we had not to work where non-unioners struck work. Third, we wanted to preserve the jurisdiction and, therefore, the job opportunities of our men; fourth, we wanted to do that without having any contracts and, fifth, we wanted to get an increase in wages.

I pointed out that the condition prevailing because of there having been closed shops resulted in there being no non-union men in the shops; there being no struck work problems; there being no jurisdictional problem and since the expiration of the contract there was no contract problem.

There was a problem that we needed the money that needed to be solved. I pointed out that their proposals to us were asking us to give up the first four conditions in order to attain the fifth. We therefore insisted upon such protection as we could get under the law if we were to have a contract, and we had proposed form P-6-A for that purpose.

• • •

[3561] * * * Q. Mr. O'Keefe stated you then added, "I don't want to dispute your altruism, but there are no traditions you can leave to the Chicago Federation of Labor."

Was any such statement made?

A. There was a statement made but not in that language. I pointed out to them that there were many traditions in the I.T.U. that neither Chicago nor the A. F. of L understood or are qualified to act upon. It was our tradition that I insisted be not left to any outside agency.

The question of altruism came about through a very positive statement by Mr. Finnegan and that they were making such an offer in all good faith. I didn't impugn his motives, but I did question his judgment in leaving what he considered the most important question to the Federation and then proposing that we arbitrate the matter of wages.

It is my memory that we covered that particularly in the letter that the Executive Council signed and sent to them in answer to their proposal.

Q. At page 700, Mr. O'Keefe testified that you said, "The trouble is that your offer gives all our offer gives us but neither of your proposals gives us protection if we have a contract. That is what we have to fear. We are not liable if we don't have a contract.

[3562] "Mr. Bassett said: 'Suppose we did propose that any challenged clauses would be void if challenged as to their legality. Unless you want to use rule or whatever you concede under the Taft-Hartley law as an economic strike, if that is the purpose I can understand it and can only condemn such reason for your program.'"

You then said, "You want us to take all the liability under the law. If we have no contract, we are not liable to any law, and we just work if anything comes up."

Do you recall whether there was discussion along those lines, whether it was in those words or not? What was said?

A. There was considerable discussion on the matter of the conditions of employment, and on the matter of the P-6-A form. The quotations offered on this page are not accurate and I don't even understand the language of the first sentence that you read from Mr. O'Keefe's testimony beginning on line 12 and ending on line 14. Their offer, whatever it was, did not give us the protection that we needed if we were to have a contract.

Q. Was that what you pointed out to them?

A. That is what I pointed out to them, and I told them that we were not liable for damages for violating a contract if we did not have a contract. Mr. Bassett's statement was critical of our program of trying not to have contracts, but it was also critical of the fact of our trying to offer [3563] a contract that would give us the protection that we thought we needed to survive. I did say to them that they proposed that we take all the liability under the law, and that they take little or none. I stated that if we have no contract, we are not liable for violations of any contract and that is not clearly stated by Mr. O'Keefe in lines 23 and 24.

Q. At page 712 of Mr. O'Keefe's testimony, he said: "Mr. Garrison then stated in the case of the printers the publishers were hopeful that a closed shop condition or a situation involving the closed shop would arise or that the closed shop problem would not arise."

Do you recall whether Mr. Garrison made such a statement, Mr. Randolph?

A. I could not say that he didn't express those hopes. As I read it, he was discussing a matter of jurisdiction as we were discussing so far as the Typographical Union was concerned, and had injected in the conversation the question of jurisdiction in the mailing room. Whatever the words were, they had reference to whether or not there was a greater opportunity of disagreement over jurisdiction in the mail room than in the composing room. After he injected the mailer question, there was later discussion of that with mail members present.

Q. On page 715, Mr. O'Keefe testified, "Mr. Randolph said you want to know what the framework is now. You are in a [3564] hell of a fix. Did you ever hear of a union increasing the amount? What difference does it make? You are going to print newspapers, anyhow. Our people are just as sure as always.

"Mr. Garrison asked, 'What is your objective in ' lling us now?'

"Mr. Randolph said, 'The objective is simple—the interpretation of proposals under the Taft-Hartley is a complete proposal.'"

Do you recall any discussions along those lines?

A. That is not an accurate statement of the discussion. The union was insisting on getting a complete proposal from the employers, including wages.

During the discussions they admitted we were entitled to an increase in wages, but they insisted that we first agree to all the other terms of a contract and that thereafter they would discuss wages.

Mr. Garrison's objections were that if they mentioned a wage increase that was satisfactory to us, that we would then put that increase in the conditions of employment, and demand that they pay it without a contract.

I pointed out to him that it makes no difference whether they offered a specific increase or not; if the union were going to prescribe a wage rate, that the union was free to do that, anyway, if they could not arrive at an agreement with the employer. He objected to the idea of having conditions of [3565] employment on the theory that a union could raise the scale any time they saw fit.

I asked him if he had ever heard of our unions operating under conditions of employment doing that. I asked him what difference did it make whether they offered an increase and we put it in the conditions of employment or if we put the same amount or more in conditions of employment without their having offered any increase. It was a matter of no great importance whether they did or not, but it was important to us as to whether they were offering a complete proposal or were not. They insisted that we agree to a portion of the contract before they would offer wages and we insisted on them offering a full proposal, including wages.

Mr. Van Arkel: I would like to suggest a clerical correction on 715, line 24.

I marked it out. Let us straighten it out later. I call attention to it now.

By Mr. Van Arkel:

Q. At page 720, Mr. Randolph, Mr. O'Keefe testified that you said that "Their instructions to the locals through post card bulletins disclosed this policy and that they were not going to change it."

Do you recall whether such a statement was made?

A. I don't recall that particular language, and I would not say that I used it. In fact, I would refer to the post cards [3566] themselves as to our intent, and our instructions.

Q. At page 721, Mr. Randolph, lines 24 and 25, Mr. O'Keefe testified you said, "We are asking you to consider

money. We won't do that until you can talk about something else. You have not made a complete proposal."

What that statement made?

A. It is not accurate. The substance of what I said repeatedly was that we insisted on their making a complete proposal and we would not agree on part of the contract unless they proposed a complete document.

Q. At page 729, Mr. O'Keefe quotes Mr. Garrison as saying: "The complete framework you offered was a contract for a year. Now we are trying to find out what kind of a relationship we are to have here in the future."

You recall whether Mr. Garrison made any such statement?

A. In effect, he was referring to the previous contracts, or the previous contract, which was for a year.

Q. Page 732, Mr. O'Keefe quotes you as saying, "We have nothing new to offer, Mr. Antrim. We believe that you refused to negotiate, and we would like to have a clear statement from you for our record."

Do you recall whether such a statement was made?

A. In substance, with this correction: Instead of using the word "negotiate", I used the words, "bargain in good faith". I said, "We believe you refused to bargain in good [3567] faith and would like to have a clear statement from you for the record."

Q. Mr. Randolph, I would like to direct your attention to certain testimony given by Mr. Applegarth, particularly page 2305, lines 7 through 11, in which he quotes you as saying, "Heretofore we could put a clause in the contract with respect to struck work or we could strike over the matter and now we can't. But we are going to retain our right to cease work or to strike to attain our objectives."

Do you recall whether any statement was made along those lines, Mr. Randolph?

A. A statement was made along those lines, but not in the exact words quoted here. There were no minutes kept of the meeting nor was there any reporter or stenographer present to take down what people said. It was a conference of an hour and a half or two hours' duration; and it was my purpose there, as it was in other places, to explain to them that we wanted as much protection as possible and in doing that we proposed Form P-6-A. I pointed out the hazards as regards the matter of struck

work and that we wanted to retain our right to refuse to work under whatever circumstances the law allowed us to cease work. I told them that our main objective was to secure an increase in wages and that we were undoubtedly going to strike to attain that objective.

Q. At page 2306 of the record, Mr. Applegarth states that [3568] you said that: "He (meaning you) would give me (meaning Mr. Applegarth) no answer on anything until I gave him a complete proposal; gave no indication of what might or might not be satisfactory. I objected to any such type, as I recall it, as he expressed it, fishing expedition."

Do you recall any such statement made, Mr. Randolph and, if not, could you tell us what was said?

A. The subject of the discussion was whether or not the union would agree to a framework of a contract before they made an ovver of money.

Q. Whom do you mean by "they"?

A. The employers. I told them that we would not agree to any particular section or any group of sections or contract until we agreed on the whole contract including wages. That is the substance of my position which he referred to as a fishing expedition.

* * *

Cross Examination.

* * *

[3569] * * * Q. You really did not intend P-6-A to be a contract that would be accepted, did you?

A. Yes, we did.

Q. However, it was your desire to work under conditions of employment rather than P-6-A, was it not?

A. It was.

Q. In other words, you considered that P-6-A was the closest to no contract that you could get and yet have what you would call a contract. Is that right?

A. No, I wouldn't say that.

Q. If you could have had a contract terminable on one day's notice, you would have done that, would you not?

A. I wouldn't say that. I can't speak for the whole Executive Council. I recall expressing the opinion in the Baltimore case that 60-day limit was put in there because of the 60 days provided in the Taft-Hartley law, and if

[3570] the period had been less, we would perhaps have provided for a lesser period.

• • •

[3582] • • • Q. This morning you denied that the 60-day termination clause in P-6-A agreement was not written in there to provide for cancellation in the event publishers did not observe closed shop conditions. Is that correct?

A. Too many "nots" in your question.

Q. For what purpose was the 60-day termination clause put into your P-6-A agreement?

A. It was put in there so either party could cancel on 60 days' notice, for any reason.

Q. For any reason? Well, specifically. What reasons would the union cancel out for?

A. That is a matter that would have to be decided if and when the situation arose.

Q. Would that include some of the reasons advanced in your post card bulletins?

A. We advanced many reasons. That is what they would include in those. I say it is all-inclusive, for any reason at all by either party.

Q. You testified this morning that the I.T.U. did not promultage a non-collective bargaining policy and a no-contract policy, did you not?

A. That is right.

[3583] Q. What did you call your policy?

A. Collective bargaining policy.

Q. What did that policy involve?

A. It is in evidence. Give me a copy of it. I will refresh my memory.

(Document handed to the witness.)

Q. In the first place it involved having no contracts, did it not?

A. No, it didn't. It involved negotiating for settlement without contracts.

Q. It included the requirement that local unions were not to submit proposals to the publishers, did it not?

A. No, it did not.

Q. As construed and interpreted and enforced by the Executive Council it required local unions not to submit proposals to the publishers, did it not?

A. That is not true.

Q. What?

A. That is not true.

Q. Did you not warn your local unions not to offer contracts or not to sign contracts?

A. No, we did not.

Q. Will you refer to bulletin No. 95? The first sentence.

Does the first sentence read: "After August 21 no union can protect itself in the essentials of I.T.U. laws [3584] if it signs a contract with employers"?

A. After August 21, 1947?

Q. That is right.

A. Yes, that is what it says.

Q. Now, what are the essentials of I.T.U. laws that a union cannot protect itself from if the union signed contracts with the employers?

A. Those essentials have to be worked out in view of the restrictions of the law, and were after August 21 so worked out.

Bear in mind that post card bulletin 95 was issued before August 21.

Q. One of those essentials was that all journeymen and apprentices had to be members of the union, was it not?

A. It was not essential if it violates the law, and we have so ruled and so held and so negotiated that any of our laws that had been essential prior to the Taft-Hartley law, but which are against the law, are not now essential.

Q. When did you do that?

A. Just as soon as the law was passed.

Q. What?

A. Just as soon as the law was passed.

Q. What communication to the local unions did you give them any such word?

A. I can't point to any communications to local unions. [3585] I mentioned that during those earlier periods. I can't point to it now, but I know that was our policy and we were very careful not to do anything that would violate the law.

Q. Isn't it a fact that the first direct instruction you gave them was sent out after the injunction decree was entered in Indianapolis?

A. I wouldn't say that.

Q. But you don't recall any other direct instruction prior to that, do you?

A. Direct instruction about what?

Q. To local unions to set aside any of your I.T.U. laws or policy that might be in conflict with the Labor Management Relations Act.

A. That was done immediately by advising them of the change in the commitment of I.T.U. laws by inserting the words "Not in conflict with law".

• • •

Q. (By Mr. Hanson) Did you send out to the local unions any instructions other than Board's Exhibit 7-O entitled "Steps in Collective Bargaining"?

A. You mean on that same point, same question?

Q. Yes.

A. We sent out frequent post cards and bulletins. I can't [3586] say that that particular point was covered in it, but the collective bargaining policy itself provides: "While there should not be and will not be any attempt on the part of the International subordinate unions to violate any valid provisions of this law or of any law, federal or state, yet there should be and will be earnest endeavors on the part of these unions to avoid any condition that will result in their being penalized by these laws and to avoid the sacrifices of rights and prerogatives which may be lost by the signing of contracts as heretofore."

Q. That same policy also contains this provision, does it not: I quote from page 100.

"It is our policy that we maintain our historic rights and prerogatives to which we are entitled and which we have enjoyed for nearly a century"?

A. It so provides but that has to be read in connection with the other one.

Q. All right.

Now, did those historic rights and prerogatives include the right of a union man to work only with union men?

A. That question has to be decided by the law.

Q. Prior to March 27, did you give any instructions to your local unions to the effect that union men did have to work with non-union men under this law?

A. I don't recall any specific instructions involving those [3587] words.

• • •

[3588] * * * Q. (By Mr. Hanson) Didn't you advise the Chicago publishers that the members of Local 16 there would not work with non-union men; they would not work on non-union products? Also, that they would keep the jurisdiction which they then had?

A. No, I did not so advise them. I was not speaking for the members of No. 16.

Q. Who were you speaking for?

A. If I expressed an opinion it was to the effect that it was my opinion that they would not work with non-union men.

Q. All right. You were called in there, were you not, but Local 16, under Article XIX of your by-laws?

A. I think that is so.

Q. You were speaking for Local 16 at that time?

A. No.

Q. Who were you speaking for?

A. I was speaking for the president of the International Typographical Union.

Q. And only for him.

Did you receive legal advice, if you were able to impose conditions of employment, that neither the local unions nor the I.T.U. would be subject to any liability under the Taft-Hartley Act?

[3589] A. In the first place, we did not intend to impose conditions of employment. In the second place, whatever our legal advice may have been we were guided by it in the procedure we followed.

* * *

Q. Did you regard the conditions of employment, if posted, and observed as a contract between publisher and the local union?

A. No, we did not.

Q. What liability were you seeking to avoid under the Taft-Hartley Act with that procedure?

A. Avoid the liability that attaches to one who is a party to a contract.

Q. What particular liability?

A. All of them.

[3590] Q. What hazards did you regard the I.T.U. was subjected to by the Labor Management Relations Act?

A. There are a number of them. In the first place the mere signing of a contract itself is a hazard. The fact

the law has made labor union agreements legal contracts injects all of the hazards that go to the signing of contracts. That was not the condition before the Taft-Hartley law. We were never confronted with any of those hazards or pitfalls that go to the question of making legal contracts.

Q. Was that the only hazard?

A. That was one, and the other hazards were the prerogatives that the employer might exercise under the law concerning which he might also contract with us.

Q. What were they?

A. The matter of requiring our members to handle non-union products; the struck work referred to us as substandard work; the question of providing for liquidated damages for any allegations of violations of agreement, non-arbitrability of our laws not in conflict with the federal law. The entire relationship was altered by the adoption of the Taft-Hartley law.

Q. Did you consider it so serious, Mr. Randolph, as to threaten the very life of your union?

A. I certainly do.

[3591] Q. And in what way?

A. Matters relating to struck work; relating to jurisdiction; relating to damages, lawsuits; laws of the union setting basic working conditions, and in many other ways that keep coming up.

Q. Among those laws of the union setting basic working conditions was the law requiring the employment of only journeymen and apprentice members of the union, was it not?

A. That was one of the laws that was set aside by the Taft-Hartley law.

Q. Do you consider that one of those that threatened to destroy your union?

A. It may eventually.

Q. Now, Mr. Randolph, you did testify, did you not, that an employer having a contract approved by you as the International president could obtain the enforcement of that contract by the Executive Council on all matters not subject to local arbitration. Is that correct?

A. Substantially so. But not to the word "enforcement", however, but as to determining the obligations of the local union.

Q. Page 100, I think, you will find in Article III, Section 1, if that is what you are looking for.

A. The second paragraph of Section 1, Article III, the I.T.U. General Laws, is the one referred to.

Q. Yes, but that does not provide for any adjudication [3592] of a dispute between a publisher and the Executive Council over the latter's decision, does it?

A. No, it does not.

Q. And there is no method for such adjudication, is there?

A. That section itself is a method of determining who interprets the obligation of the local union.

Q. If the local union has a provision in its contract exempting the I.T.U. laws that are not in conflict with law from the operation of the contract, what agency would determine the question of what I.T.U. laws are not in conflict with the laws?

A. I cannot tell. It would depend upon the facts in each situation.

Q. If the Executive Council reserves the right to pass upon questions between the local union and the employers arising under the contfact, under Article III, Section 1, would it not include a dispute as to whether the provisions are in conflict with law?

A. No, I would not say that.

Q. Why wouldn't you?

A. Whether or not a thing is in conflict with civil law is something that has to be determined by the attorneys or the parties involved.

Q. But your law specifically provides that where the contract between the local union and the employers does not provide a method for adjudication of differences as to interpretation and enforcement, the employer may require the International Typographical Union to interpret the obligation of the local provided such contract is approved by the President of the International as conforming to the laws of the International Typographical Union, does it not?

A. If you have read it correctly, that is what it says.

Q. Now, if there is a conflict between the local union and the employer, as to whether or not there is a conflict with law, doesn't that provision apply?

A. You mean with federal or state law?

Q. With federal or state law.

A. I don't know. We would have to settle that with legal advice if and when it arose and under the circumstances it arose. It is too big a question for me to answer.

• • •

Q. (By Mr. Diamond) Mr. Randolph, is the anti-closed shop of the I.T.U. have a bearing on the policy adopted by the I.T.U. at the convention at Cleveland?

A. We certainly did.

Q. Was that provision the principal motive for the policy adopted in Cleveland?

A. No, I would not say that.

Q. One of the principal motivations?

[3595] A. It was adopted in view of all the matters that the Taft-Hartley Act affected.

• • •

Trial Examiner Leff: Do you draw a distinction between a closed shop and closed shop condition?

The Witness: Yes. I explained that to the Judge. I pointed out that a closed shop condition would exist if a [3596] shop went on just as it has been going on, and no non-union men were hired; nobody was hired. I pointed out that a closed shop condition would exist if the so-called union shop were put into effect and everybody in the place was a member of the union. It is a condition of everybody working belonging to the union. It has nothing to do with the legal closed shop established by agreement, or any other method. It is simply an existing condition where everybody is a member of the union.

Unfortunately, that word has been enlarged upon and it has brought out the theory that we are trying to establish a closed shop. That isn't so.

Trial Examiner Leff: When you testified in response to Mr. Van Arkel's questions that you had never stated to Mr. O'Keefe during the Chicago negotiations or to Mr. Applegarth's during the Detroit negotiations, that you wanted to maintain a closed shop, did you have in mind at that time the distinction between a closed shop and a closed shop condition which you now make?

The Witness: No, we did not even discuss the difference between closed shop and closed shop condition in those meetings, so far as I recall.

Trial Examiner Leff: That is not my question. My question is when you responded in that manner to Mr. Van Arkel's question, did you have that distinction in mind?

The Witness: No, I did not.

Trial Examiner: Anything said in Chicago or Detroit by you that you were desirous of maintaining closed shop conditions?

The Witness: No.

Trial Examiner Leff: Was that mentioned at all?

The Witness: Not that I recall. I don't even recall it ever came up.

Trial Examiner Leff: Proceed, Mr. Diamond.

Q. (By Mr. Diamond) Did you ever advise or suggest to an employer if a non-union man applied for a job he could be denied a position because of the color of his hair or race or his creed, or any arbitrary reason that the employer chose to suggest?

A. No, I did not.

Q. If anyone so testified, he was inaccurate in so testifying. You stated that?

A. He was incorrect.

Trial Examiner Leff: You did say that in one of your speeches, did you not?

The Witness: I have said, Mr. Examiner, that the law gives him the opportunity to deny employment for race, color, creed, religion or color of hair, but that he must not deny him because he is a member of the union. I repeatedly remarked about the ridiculousness of the law in that regard.

[3598] Q. (By Mr. Diamond) Are you trying to suggest when you made that statement that that was one way the employers could collaborate with the union to maintain a closed shop condition?

A. No.

Q. You testified on your direct, Mr. Randolph, that you objected to the responsibility that attached to the signing of a contract by a union under the Taft-Hartley law and that changed the previous situation, did you not?

A. I did.

Q. Do you mean that before the Taft-Hartley law was passed, a union could sign a contract but had no legal responsibilities under it?

A. I said that before the Taft-Hartley law that question never came up in our relations, and were always responsible parties to a contract, always lived up to its terms.

Q. You mean you always lived up to it if you had to and not when there was no one to force you to do so?

A. We lived up to it regardless.

Q. But your own will but not under any legal responsibility; is that it?

A. We didn't have the question of legal responsibility ever come up.

Q. It came up with the Taft-Hartley law, did it not?

A. It certainly comes up because the government so decreed.

Q. And you object to that?

[3599] A. We object to that, yes.

• • •

[3601] • • • Q. (By Trial Examiner Leff) Is an applicant for union membership required to sign any card?

A. No. An applicant for union membership applies to a local union for membership and when he becomes a member of it he automatically is a member of the ITU.

• • •

[3604] • • • Q. (By Mr. Sinsheimer) Mr. Randolph, I show you what has been marked Board's exhibit 92 for identification. Have you since the last time you were here become acquainted with this document?

A. I have seen copies of it.

Q. Do you know whether or not Board's exhibit 92 for identification is a correct copy of a document issued by New York Local Union No. 6?

A. It appears to be.

• • •

[3606] • • • Trial Examiner Leff: Objection overruled. Board exhibit 92 is admitted.

(The document previously marked for identification Board's exhibit No. 92 was received in evidence.)

• • •

[3609] • • • Trial Examiner Leff: Has the union ever taken any position on that, Mr. Randolph?

The Witness: Well, the laws of the union which result

in the creation of a journeyman member bring about a situation where any member of the union who has a journeyman's card is considered a competent journeyman.

Q. (By Mr. Sinsheimer) Did your executive council have a discussion as to the subject of competency prior to sending the letter of April 19th, Mr. Randolph? That is the letter which is in evidence as exhibit 90-B.

Mr. Van Arkel: Again I suggest, Mr. Examiner, that the letter, which is the product of the discussions which may have been had, speaks for itself.

Trial Examiner Leff: Objection overruled.

The Witness: The executive council discussed the proposals submitted to it by the officers of the New York union.

[3610] Q. (By Mr. Sinsheimer) What discussion was had subsequently with respect to the clause relating to competency?

Mr. Van Arkel: I renew my objection, Mr. Examiner.

Trial Examiner Leff: Objection overruled.

The Witness: The general subject was discussed as regards the proposal.

Q. (By Mr. Sinsheimer) What was said?

A. I can't recall what was said.

Q. You can't recall anything about that discussion?

A. I make no attempt to record verbatim what members of the council say and I can't tell you what was said about it.

Q. You mean that discussion was not important enough for you to recall?

A. It was certainly important enough to be recorded in a letter to the New York union along with the other subjects discussed and it was so recorded.

Q. As a matter of fact, you did consider it so important that you said, "We cannot stake the future welfare of the organization on an assumption that a group of persons who have no technical knowledge of the printing industry or interest in the Typographical Union will act to protect our interests." That is what you said, isn't it?

A. If you are reading from the letter correctly that is what the letter says.

Q. And you deemed it vital to the interests of the union [3611] to have a change made with respect to the competency clause?

A. That is right.

Q. Yet you cannot recall any discussion concerning that particular change?

A. No, I don't recall anything that was said. The members of the council are competent people and they know all of the things that are necessary and we talk very little.

Q. How long did you talk about this whole matter before you sent this letter, Board's exhibit 90-B?

A. Well, we discussed the whole matter two or three hours.

Q. And you cannot recall anything that was said about this subject of competency?

A. I make no attempt to recall what any one person said in that conference.

Q. Do you recall anything that was said with respect to competency?

A. I said "No."

Q. You had no difficulty this morning in recalling that certain statements were not made by you at Chicago last fall, didn't you?

A. That is very true when the allegations were made by a publisher's secretary that remembered more than most anybody could possibly remember as to what people said.

Q. And yet you know that notes were taken of those meetings?

[3612] A. By other publisher representatives, yes.

Q. And none by union representatives?

A. None by me.

Q. Now, with respect to page 3 of this letter, where you speak of protecting the interests of the Typographical Union, what interests are you referring to?

• • •

A. I don't have page 3 in front of me.

Q. I will refer you to page 3, Mr. Randolph.

A. The paragraph referring to that reads as follows:

"The fourth rule to be followed by foremen when hiring new employes gives the union no voice in selecting examiners or power to establish standards. Perhaps it has been assumed that the Board of Education will name [3613] qualified and impartial' examiners who are members of the union but we cannot stake the future welfare of the organization on an assumption that a group of persons who have no tech-

nical knowledge of the printing industry or interest in the Typographical Union will act to protect our interests."

Q. Now, you referred to "our interests." What interests are you referring to?

A. The interests of the members of the International Typographical Union.

Q. What particular interests?

A. In reference to that paragraph we have an interest in the competency of people who are employed in composing rooms on journeyman scales for which we make agreements. We have an interest in such as may become members of the union and we want them to be competent. It is to our interest to see that the International Typographical Union standards are kept up fully within the law and we intend to do that.

Q. Are there any people, in your opinion, outside of the International Typographical Union who are competent to judge qualifications of persons to be journeymen?

* * *

[3619] * * * Q. (By Mr. Sinsheimer) You attended a meeting in New York City on May 7th, did you not, Mr. Randolph?

A. What day was that?

Q. That would be Friday, May 7th.

A. I think that was the date.

Q. And that was a meeting among representatives of the New York newspapers, the Publishers Association, the [3620] International Union and the local union, is that right?

A. They were all present, yes.

Q. Will you tell us what happened at that meeting?

A. I explained to the meeting my purpose for being there, the capacity in which I was appearing and I stated that I wanted to clarify a few points before we proceeded. And thereupon the spokesman for the publishers, Mr. Lane, said there are certain points that needed clarifying. He referred to a telegram from the executive council to the officers of the local union mentioning the publishers' proposal to the local union for a contract.

He stated the publishers had made no such proposal.

Q. Who said that?

A. Mr. Lane, speaking for the Publishers Association of New York, said it. That point was verified by the president of the local Typographical Union on questioning by me and thereupon I informed them that I would have to give the matter considerable thought inasmuch as it was a complete change from the facts as I had understood them. I took the matter under advisement pending a following meeting which was held on Monday afternoon.

Q. Now, was that all that happened at the meeting on May 7th, Mr. Randolph?

A. That is all. There was considerable discussion by the employer members concerning the questions I had raised and I [3621] maintained my position that I would have to give the matter a lot of study before I could proceed in my official capacity.

Q. Well, didn't you propose that you and vice-president Brown would meet with the publishers without the presence of the local union?

A. I proposed that a sub-committee of the publishers meet with vice-president Brown and I, but there was considerable objection on the part of the Publishers Association to that course. They requested that the representatives of the local union be present because of certain negotiations that they had had. The meeting was adjourned without my acquiescing in their suggestion.

Q. What did you have to say about the presence of representatives of the local union?

A. I advised them that in my capacity representing the International Union that I would determine whether or not I needed such advice or how or in what manner I would carry on my duties as president of the ITU.

Q. Do you remember making this statement: "I am not trying to suggest who should represent you, but I will determine who will represent the local union"?

A. No. Who will represent the International Union.

Q. You definitely did not make that statement?

A. Definitely did not. I am there representing the [3622] International Union.

Q. Did you make any statement like this: "The local union has no desire in the matter. The local called in the International to do a job and now has no voice in the matter"?

A. I was asked if I knew what the desires of the local

union were with regard to the meeting. So far as I knew there were no desires and none had been expressed to me. I was there under the provisions of Article 19 of the ITU by-laws and I was performing the function of president of the International Typographical Union. I met upon the insistence of the publishers' representatives. They were telling me who would represent the International Union and I resented that.

Q. What did the publishers say about who would represent the International Union?

A. They recognized that I had a right to determine that fact but requested that I have the other representatives of the local union present. I received a further letter to that effect on Saturday and I recognized their desires in the matter and called the officers and the committee of the local union into the meeting on Monday.

Q. But on Friday you were unwilling to permit the local union to participate, isn't that right?

A. No, that is not right. On Friday I was unwilling to [3623] have the publishers dictate to me who would represent the International Union and I sensed they were attempting to dictate to me.

Q. How were they attempting to dictate who would represent the International Union when you were present as president of the International Union?

A. By their constant insistence that the local people participate in the conference.

Q. Could the local people possibly represent the International Union unless the International authorized them to?

A. Certainly not.

Q. Now, what happened at the meeting on Monday?

A. I presented to them a statement outlining my position as president of the International Union. They asked it to be enlarged or clarified or explained and I refused to do either.

Q. What position did you take at the Monday meeting?

A. It was in writing and I presented it to them in writing.

Q. And do you have that writing?

A. I don't have a copy with me.

Mr. Sinsheimer: I will ask the reporter to mark as

Board's exhibit 93 for identification a paper consisting of two pages, the first of which is entitled, "Statement by President Woodruff Randolph to the Newspaper Publishers' Association of New York City, May 10, 1948." It is addressed, "Gentlemen." The second page has no signature but concludes:

"It is with such a result in mind that the matter of a proposal for a new agreement is referred to New York Typographical Union No. 6 for action as provided by the laws of the I.T.U."

(The document above referred to was thereupon marked Board's Exhibit No. 93 for identification.)

Q. (By Mr. Sinsheimer) I show you, Mr. Randolph, what has been marked as Board's exhibit 93 for identification and ask you if that is a correct copy of the statement which you presented to the publishers of New York City on May 10th?

A. I don't know. Apparently it has been retyped.

Trial Examiner Leff: Well, is it a correct statement?

The Witness: Well, I couldn't tell that without proof reading it with the one I gave them.

Trial Examiner Leff: Can't you recall what you said in your statement? You prepared it, did you not?

The Witness: Sure. Substantially it appears to be that document.

Trial Examiner Leff: Do you find any inaccuracies as far as substance is concerned?

The Witness: Well, I will have to read it.

Trial Examiner Leff: Will you do so? We will take a short recess.

(Whereupon a short recess was had.)

[3625] Trial Examiner Leff: You may proceed.

The Witness: What was the question, please?

Trial Examiner Leff: Will you ask another question?

Q. (By Mr. Sinsheimer) Have you examined Board's exhibit 93 for identification, Mr. Randolph?

A. Yes, I have.

Q. Is that a correct copy of the statement which you presented to the publishers on May 10th?

A. No, it is not.

Trial Examiner Leff: In what respects is it not accurate?

The Witness: I find it has one error in it and I think

it is an error of the copyer's rather than any error in getting it in the original.

Q. (By Mr. Sinsheimer) What is that error?

A. On page 2 in paragraph numbered 1, the first line, the word "does" should be "do."

Q. Did you find any other errors in Board's exhibit 93 for identification?

A. That is all I noted in one reading.

Mr. Sinsheimer: I will ask the reporter if we can get him to change the word "does" to the word "do", as indicated by Mr. Randolph, on the Board's exhibit 93 for identification and with that change I offer Board's exhibit 93 in evidence.

[3626] Trial Examiner Leff: Any objection?

Mr. Van Arkel: I think I have already stated my reasons for objecting to inquiring into these matters.

Trial Examiner Leff: Objection overruled. Board exhibit 93 is admitted in evidence.

Mr. Van Arkel: Further than that, I would like to examine this with the copy to correct any errors. I want to compare it with an accurate copy.

Trial Examiner Leff: Yes, you have that right reserved. Exhibit 93 is admitted.

(The document previously marked for identification Board's exhibit No. 93 was received in evidence.)

Q. (By Mr. Sinsheimer) Between Friday, May 7th and Monday, May 10th, Mr. Randolph, what happened to cause the International Union to decide that it did not want to participate in negotiations with the New York publishers?

A. There was nothing happened.

Mr. Van Arkel: I object to that as containing a conclusion. There is no evidence that he objected to participating in negotiations with the New York publishers.

Trial Examiner Leff: With Mr. Sinsheimer's permission I should like to modify his question by putting it this way: What happened between Friday and Monday which led you to take the position expressed in Board exhibit 93?

A. Nothing additional happened. I advised them on the [3627] first meeting that I would have to seriously consider what position I should take in view of the fact that the publishers had made no proposal to the union and

that the proposal that had been submitted to me had been submitted by the local union scale committee to the publishers and it was during the lapse of time that last meeting to Monday that I prepared the statement of my position.

Q. (By Mr. Sinsheimer) Did you consult with counsel in the course of preparing Board's exhibit 93?

Mr. Van Arkel: Objection, Mr. Examiner.

Trial Examiner Leff: Overruled.

The Witness: I did.

Q. (By Mr. Sinsheimer) And that was between Friday and Monday, is that correct?

A. That is right.

• • •

Q. (By Mr. Hanson) Mr. Randolph, I believe you testified [3628] when you were on the stand before that you had authorized vice-president Brown to cooperate with Local No. 6 scale committee in the preparation of proposals to submit to the New York publishers, is that correct?

A. I testified that I authorized him to assist the local union in preparing proposals.

Q. Yes.

A. And that it was my belief that they were to be submitted to the local union before being submitted to the publishers.

Q. Well, do you think it was vice-president Brown or the scale committee that did not follow what you thought ought to be done?

A. The local scale committee.

Q. Why do you think that?

A. Because they did not present it to the local union before presenting it to the publishers.

Q. But didn't you testify when you were last on the stand that the local union wanted to expedite these negotiations and that you had authorized Mr. Brown to cooperate with them to that end?

A. To help them prepare proposals.

Q. And only to help them prepare proposals?

A. That is right.

Q. Did he ever submit to you the proposals which he helped them prepare?

[3629] A. No.

Q. Do you know whether he helped them prepare any?

A. Well, he told me he did and they told me he did.
Q. But you have never seen those proposals?
A. No, I haven't.
Q. Well, then, do you think he had any obligation to submit those to you?
A. Not he. The local union did, the local scale committee did.
Q. But you had sent him in there as your representative to cooperate with them, hadn't you?
A. He was already in the city.
Q. And he had authority from you to act, did he not?
A. No. He had authority from me to help them prepare proposals.
Q. But after that was done you still say that they had to submit them to you before they could be submitted to the publishers?
A. Well, they had to submit them to the local union. In helping them prepare their proposals vice-president Brown was, I believe, fully competent to pass on them as to their legality and he helped them prepare some proposals which they did not submit to the local union.
Q. Do you know whether he advised them not to submit them?
A. No, I do not.
[3630] Q. Have you any reason to believe that he advised them to submit them to the local union?
A. No, I don't think he advised them either way. I never heard anything either way on it.
Q. Have you discussed with him what he did do?
A. Since this came up I did.
Q. What did he tell you about it?
A. He said he helped them prepare the proposals.
Q. Well, now, what proposals did he help them prepare?
A. Well, he helped them prepare a set of proposals.
Q. Were they the proposals that were with modifications finally agreed upon between the scale committee and the publishers?
A. No.
Q. In what respect were they changed?
A. Well, I haven't examined either those or the proposals the committee made. I only know what they said about them.
Q. Who do you mean by "they"?
A. The local officers and Mr. Lane.

Q. What is the status of the New York negotiations now, Mr. Randolph?

A. The local union is, I presume, preparing proposals for adoption by the local union before submitting them to the publishers.

Q. Do you mean to say that as a result of your interference [3631] there that the scale committee has been able to renege from that agreement that was entered into?

Mr. Van Arkel: I object to that.

Trial Examiner Leff: Sustained.

Mr. Hanson: I think the record is clear that he did interfere.

Trial Examiner Leff: I think the word carrys an improper connotation. Reframe your question without using the word "interference".

Q. (By Mr. Hanson) What is the occasion for the local union preparing new proposals now, Mr. Randolph?

A. The local union has to prepare proposals and the local union has to adopt those proposals in order to lay a basis for collective bargaining.

Q. Has the local union ever passed upon the tentative agreement reached between the scale committee and the publishers?

A. No, it has not.

Q. Why hasn't it?

A. The information I have is that when they were presented a point of order was raised and the president ruled against the point of order and on appeal the membership overturned the president and decided not to act on the proposals as submitted by the committee.

Q. Was that before or after the executive council directed [3632] this letter of April 19th to the union?

A. That was before.

Q. Was it before or after the executive council had sent a telegram to the union instructing it to hold up consideration pending further advice from Indianapolis?

A. The executive council did not send such a telegram.

Q. What did the executive council do?

A. It sent them a telegram telling them it did not meet the requirements of ITU laws or collective bargaining policy and advised them not to submit it to the union for a vote.

Q. So that, in effect, it was the action of the executive council which was discussed at that Sunday meeting in the union then, was it not?

A. I don't know what was discussed there.

Q. Well, didn't you just say that there was a point of order raised against the submission?

A. I said my information was to that effect.

Q. What other information do you have?

A. I think I gave you all that I have except that the officers did present it to the meeting contrary to the advice of the telegram.

Q. What was the nature of the point of order that was raised, do you know that?

A. That not having been approved by the executive council [3633] as in compliance with our laws that it should not be considered. Now, that is the substance of what I was told that the point of order was. I wouldn't swear as to what it was.

Q. Then did the union adopt a motion to defer action on the newspaper scale pending further receipt of instructions from the executive council?

A. I don't know.

Q. Does Local 6 still have the right to pass upon that agreement tentatively entered into between the scale committee and the New York publishers?

A. It hasn't the right under our by-laws, no.

Q. It does not?

A. In my opinion they have no right to act on something that they cannot sign legally. The law provides they shall not sign a contract unless it has the approval of the International president. Obviously, if they adopt a proposal at a union meeting they would be requested to sign it.

Q. Now, you are the International president of the union, are you not?

A. Yes, sir.

Q. Did you read the agreement which was tentatively agreed to between the scale committee of Local 6 and the publishers?

A. I read it.

[3634] Q. Did you read the letter of April 19th addressed to Mr. Victory, which is in evidence here as Board's exhibit 90-B?

A. I would like to see it.

Trial Examiner Leff: It is the letter of April 19th.

The Witness: This is the letter of the executive council to the local union?

Q. (By Mr. Hanson) Yes, sir.

A. Yes.

Q. All right. Now, did you read the tentative agreement arrived at between the scale committee and the Publishers Association before that letter was sent?

A. As submitted to me, yes. The proposal was submitted to me and was the basis of this letter. Certainly I read it.

Q. You read the proposal?

A. Certainly.

Q. Before you referred it to vice-president Taylor for reply and comment?

A. Yes.

Q. Then at the time that this letter of April 19th was written you had read the agreement that had been entered into between the scale committee and the Publishers Association?

Mr. Van Arkel: I object to that, Mr. Examiner, to the word "agreement". It certainly appears in the testimony [3635] that this was no agreement at the time it was submitted.

Trial Examiner Leff: Substitute something for the word "agreement."

Mr. Hanson: Tentative agreement, that is what they called it.

Trial Examiner Leff: Tentative agreement or, rather, the scale of prices as contained in Board exhibit 92 and you may answer that question.

The Witness: I had read the document Board exhibit 92; that is the scale committee—the middle column headed, "Scale committee's recommended proposal."

Q. (By Mr. Hanson: Now, you had read that before this letter of April 19th was prepared, had you?

A. That is right.

Q. Had you read it before the telegram was sent to them advising them not to submit it to the local union?

A. I had not read all of it.

Q. Is there any paragraph in that tentative agreement which appears in the middle column of Board's exhibit 92 that you consider to be in violation of the Labor-Management Relations Act of 1947, Mr. Randolph?

A. Any section?

Q. Or provision?

A. Any provision in the scale committee's recommended proposal that is in violation of the Labor-Management Relations [3636] Act?

Q. That is right.

A. I don't know that I consider any of them so.

Q. Did you find any in there that was a violation of any of the general laws of the ITU?

A. Well, I went over the thing with the other members of the council. The sections that we considered needed change to comply with the laws of the ITU and our collective bargaining policy, suggested changes, were made and incorporated in the letter of April 19th.

Q. I repeat the question, Mr. Randolph. Did you consider any of the provisions in that tentative agreement to be in violation of the general laws of the ITU?

A. The answer is "Yes".

Q. What were they?

A. Section 84, the matter marked in brackets.

Q. Just a minute till I find it. All right.

A. The new section on machinist apprentice.

Q. Now, that Section 84 you say was in violation of the ITU law?

Mr. Reilly: What is the answer?

The Witness: I did. Section 78, I consider that might be a violation of the Taft-Hartley law. The new section on jurisdiction would not comply with ITU law. The section on mutual guarantees did not seem to us to be sufficient to [3637] comply with the ITU laws not in conflict with federal or state law. Section 1 to the same effect. Section 4 to the same effect. Section 85 to the same effect. I think that is all.

Q. All right. Will you turn your attention to Section 78 for a minute?

A. Yes.

Q. What was your objection to that paragraph, Mr. Randolph?

A. It states:

"On the completion of the term of service of an apprentice and his admission into the Union he shall be placed at the bottom of the priority list in the office in which he is working."

If he happens to be a non-union apprentice and he doesn't want to join the union we would be accused of vio-

lating the Taft-Hartley law by putting such a provision in the contract.

Q. Is that the reason you gave in your letter to Mr. Victory for the change which you recommended?

A. The reason set out in the letter is, "In order to retain as much control over apprentices as possible Section 78 should be re-written as follows."

Q. What did you mean by "in order to retain as much control over apprentices as possible"?

A. We cannot retain control over the apprentices so as [3638] to require them to join the union. It is not possible to do that under the law as I understand the law.

Q. Very well. Do you recall whether the Section 78 that was submitted to you contained the phrase, "and his admission into the Union"?

A. Well, I only assumed this. It is here in this exhibit and I assume it is exactly the same as it was here.

Q. Well, the exhibit indicates that the words "admission to union" were eliminated from the old contract, does it not?

A. No, it does not.

Q. If you look at the legend at the bottom of that column it says: "Matter in bold face is new. Matter in brackets is to be omitted." So that the title of the paragraph showed that "admission into the union" was eliminated, does it not?

A. That was only the title to the paragraph.

Q. Very well. I now repeat the question. If it should appear that the phrase in the second line of that section "and his admission into the union" appears on this exhibit by error and that that was not agreed to tentatively between the parties but that the paragraph with this omission was agreed to tentatively, would there have been any occasion for your comment?

[3639] Mr. Van Arkel: I object to the question as hypothetical, Mr. Examiner.

Trial Examiner Leff: Overruled.

The Witness: Well, I can't accept anything but what they sent me and this Section 78 was sent to me that way.

Q. (By Mr. Hanson) Are you positive of that?

A. Well, I don't have it here. I am reading now from the Government's exhibit.

Q. Well, if at a later time it should appear that the document which was sent to you read as follows:

"On completion of the term of service of an apprentice he shall be placed at the bottom of the priority list in the office in which he is working," I ask you again what objection there could be to that clause?

A. Well, the change would still be necessary to conform with the other recommendations made by the executive council, especially in view of the fact that all of the apprentices, whether they be union or non-union, would have to have evidence through the joint apprenticeship committee that they had served their apprenticeship and were competent journeymen.

[3640] Q. Then I want to go back and ask you what you meant by saying in order to retain as much control over apprentices as possible?

A. That means that we want to share in the agency that determines whether or not competency has been attained, journeymen standards have been attained.

Q. That is all?

A. That is right. That is all I can recall right now.

Q. What?

A. That is all I can recall right now.

Q. I direct your attention to the Section 80 of the tentative agreement which you have before you. You did not make any suggestion for changing that, did you?

A. We made no suggestion on that.

Q. Didn't that section give you the control that you were seeking over apprentices to the extent which you just mentioned?

A. Section 80 does not provide for establishing of the apprentices' priority, nor is it specific on how the apprentice becomes a journeyman.

Q. Does Section 78 as submitted provide that he, upon completion of his term of service as an apprentice, should be placed at the bottom of the priority list in the office in which he is working?

A. The same term of service and admission to the union.

[3641] Q. We are eliminating "and his admission in the union" on the assumption it is not in the agreement as submitted to you.

A. I am not eliminating it because it was in there.

Q. Would you be good enough during the recess this evening to check with Indianapolis on the 'phone and find out whether it was in it or not?

Mr. Van Arkel: I was in hopes we would get through this evening.

Mr. Hanson: We haven't started yet.

Q. (By Mr. Hanson) The joint apprentice committee created in paragraph 80 to which you had no objection includes two representatives of the union, does it not?

A. Yes, it does.

Q. And it is given full power to study and investigate and report during the life of the contract to interpret and administer all the provisions of the contract covering apprentices, does it not?

A. Whatever it say in there. I again want to say that to retrace negotiations through this document is going to be very long and tiresome.

Q. Well, even so. We are going to retrace some of them.

A. I can't compare one section with another section and with some other sections. We spent several hours trying to harmonize the various sections. Our rules are shown in a [3642] written document and that is the best we could do with it. It does not mean we think it is good. All it means is that we made suggestions there to take out the things that were impossible.

Q. Were they suggestions or instructions?

A. They were suggestions.

Q. All right.

I will direct your attention now to page 6, first paragraph.

Trial Examiner Leff: 6 of what?

Mr. Hanson: Letter to Mr. Victory.

Q. (By Mr. Hanson) Did you not say in that paragraph "wherever the word 'should' has been used in reference to any change suggested, it is not used in a permissive sense as to the subject covered. The word we have used will be 'approved'. Any deviation therefrom must be approved by the Executive Council before being submitted to the union."

A. That is right.

Q. And you underscored the word "not" in the second line and the word "subject" in the second line, did you not?

A. That is right.

Q. Would you call that advice or instruction?

A. I call it advice. They could have found some other words, perhaps, that would have been acceptable.

Q. But they would have to be submitted to you before they [3643] can submit it to the local union, would they not?

A. That is as provided by the I.T.U. laws.

Q. In other words, when you send these suggestions in they have got to take them as is before submitting them to the local union or if they want to make any change it has got to get your approval?

A. That is right.

Q. I direct your attention to Section 4 of Board's Exhibit No. 92. There you made one change, did you not?

A. It seems to be only one change.

Q. Was the matter which you eliminated in violation of I.T.U. law?

A. It is in violation of I.T.U. collective bargaining policy as we interpret it.

Q. In what way?

A. It is injecting a whole new line of thought into our contract relationships.

Q. In what manner?

A. By the inclusion of the words "publisher for the conduct of its or their".

Q. What section of your General Laws does that violate, if any?

A. It is an injection of an entirely foreign element in our collective bargaining. The mentioning of the laws of the publishers we just don't take. We don't believe that [3644] is in accord with our historic method of collective bargaining and not contemplated by our laws at all.

Q. But you haven't any specific law to which you refer?

A. There is no law that says unions must not bargain with regard to publishers' laws, if that is what you mean. I don't know that there is any mention of publishers' laws in the I.T.U. book. But we don't know what they are. We are not taking cognizance of them in any approved I.T.U. contract.

Q. How about the word "rules" instead of "laws"?

A. The only rules that are historic and traditional in our industry are chapel rules, governing the laws of the local union, or office rules that the employer posts in his composing rooms to govern our members concerning their conduct in the office.

Q. You have long recognized the right of the publisher rules not to conflict with the contract, have you not?

A. That has always been one of the subjects of controversy as to just how far they can go with the posting of office rules. When publishers post obnoxious rules there is always controversies about them. Eventually they get settled, but the office rules have not been recognized that would interfere with the contract or with union law.

Q. Who would settle those controversies?

A. They get settled somehow or other, and no matter how [3645] they get started they eventually get settled. There is no modus operandi except getting to them and trying to get them settled.

Q. Your real objection was you did not want to make any rules of the publishers for the operation of the composing room in a contract with publishers; is that right?

A. Nothing more than the office rules which are already mentioned in I.T.U. laws.

Q. But I again ask is there any violation of the I.T.U. law?

A. We consider it does.

Q. And of what particular law?

A. There is no particular law. There is no law against murder, but that is out.

Q. I think if you murdered somebody, you would find out differently, Mr. Randolph. I was referring to a—

A. (Interposing) I was referring to an I.T.U. law against murder. No specific I.T.U. law against murder.

Q. I thought you were also referring to the federal and state laws here, too.

A. I don't think you thought that.

Q. Turn to Section 84. Wherein did that section as tentatively agreed to violate the I.T.U. law?

A. The paragraph identified as "Third." It says: "Third. Journeymen with experience in other composing rooms in greater New York."

Q. Is that the only objection to it?

A. There is a suggested change in the next paragraph of having a joint examining board under procedures established by the School for Printers and Apprentices of New York City.

Q. That is a school that is really controlled by your union, is it not?

A. No.

Q. Staffed by your union members, is it not?

A. I would not say that. I don't know. I know we have got one member there as an instructor.

Q. Do you know of anybody teaching in that school for printers and apprentices who is not a member of the I.T.U.?

A. I am not familiar with whether there are or not.

Q. All right.

Let us go back to paragraph "Third".

"Journeymen with experience in other composing rooms in Greater New York."

You stated your objection to that in your letter to Mr. Victory, did you not? It is at the bottom of page 2, Mr. Randolph.

A. The paragraph is: "The provision 'journeymen with experience in other composing rooms in greater New York' would open up newspaper composing rooms to all those [3647] who have worked in greater New York, union or non-union, giving such applicants preference over members from outside New York. This provision must be eliminated."

Q. Was there any greater preference except in the matter of priority in that paragraph "Third" than appears in paragraph "Second"?

A. Certainly, there is a lot of difference.

Q. Explain it.

A. The second paragraph refers to members working in the offices. Some offices are arranged on a departmental basis where priority is in the department only and others where there is no departmental arrangement, and priorities are in the whole shop. That is what is referred to in the second one.

In the third one, to which objection was taken, regardless of any established priority in the office, if a journeyman from some other New York City or greater New York composing room came in, he would have greater priority than one who came from outside New York and that was the objection we had to it.

Q. Greater priority over one or over a member of your union from outside of New York, Mr. Randolph?

A. Over anybody.

Q. Your letter says over members.

A. It would be over members, too. No use picking the eyes [3648] out of the situation. It applies to everybody that works in greater New York as compared with others from outside New York.

Q. But you didn't say that in your letter, did you? In effect, in your letter you instructed them to take that paragraph out because it would give non-union printers in New York preference over members of your union outside of New York, did you not?

A. That is right. We are making a contract for priority and we are not in conflict with I.T.U. laws. We know perfectly well that whoever establishes priority whether it is the union or non-union is going to get that priority. But we are not going to establish superior priority for people who work in greater New York. That is the simple fact of the situation.

Q. You are not going to establish that for members or non-members of the union. Is that right?

A. That is right.

Q. Why didn't you say so?

A. Mr. Hanson, there is no way we can be letter perfect, or word perfect in all the things we do. You may be able to do that; we are not.

Q. Mr. Randolph, are you willing to inform your New York local that that instruction was an error and in violation of law as a result of this examination?

[3649] A. I don't concede it is a violation of law. We had no intention of violating the law. Taking the section out clears it up so there can't be any violation of either law.

Q. And you say you do not know much about the joint school for printers and apprentices?

A. All I have been told is that it is operated by the City of New York. I do know we have one man that I believe is an instructor or head instructor. I only know one man.

Q. But you took that on hearsay and advised the New York union to include that provision?

A. We made the same provision in the commercial agreement in New York City that is acceptable to the employers and it is the provision that the local union wanted.

Q. But in this case it was not accepted by the employers?

A. In this case the local union had not even considered it so you don't know what the union thought about it.

Q. Do you mean to say, Mr. Randolph, that in your opinion these negotiations which started last December and wound up in April were never even considered by the local union in all that period of time?

A. That is a very all-inclusive statement or question. The local union did consider what it wanted to establish by way of conditions of employment. Subsequent to the issuance of the injunction they were advised to prepare proposals [3650] for a contract.

Q. Mr. Brown was in New York at that time, was he not?

A. He had been working on the commercial school at that time.

Q. And was delegated by you to cooperate with the local union in preparation of proposals for submission to the publishers?

A. No preparation of proposals.

Q. To what use were the proposals going to be put if they were not going to be submitted to the publishers?

A. First they have to be submitted to a local union. They are the ones that pass on proposals.

Q. After that they have to be submitted to you?

A. They have to be submitted to me to see if they comply with I.T.U. law, and collective bargaining policy before being presented to the publisher. That is our law, and has been for a great many years.

Q. And if you say they do not comply with I.T.U. law, they cannot be submitted to the publishers except in violation of I.T.U. law?

A. That is right.

Q. You consider their submission to the publishers in this case was in violation of I.T.U. law?

A. I think it was.

Q. Prior to June 22, 1947, whenever you approved an agreement [3651] between a local and an employer, you attached an endorsement thereto, did you not?

A. I would not say it is an endorsement.

Q. What would you call it?

A. We attached a statement indicating that it had been approved as complying with I.T.U. laws.

Q. You had a standard underwriting clause, did you not?

A. We had several since I became president.

Q. Would you say that the last one that you used read as follows:

"This agreement is approved as being in compliance with the laws of the International Typographical

Union, and the undersigned on behalf of the Executive Council of the International Typographical Union hereby pledges its full authority to the fulfillment thereof"?

A. That is the statement that the Executive Council authorizes me to put on such contracts as were approved.

Q. Are you still using that clause?

A. No, I am not.

Q. Is the clause which you are now using substantially as follows:

"Insofar as the undersigned is able to ascertain, the above is approved as complying with the decree of Federal Judge Sweiger dated March 27, 1948."

A. I think that is it.

[3652] Q. Now, will you tell me wherein this tentative agreement reached by the scale committee and the local publishers in New York failed to comply with the decree of Judge Sweiger, dated March 27, 1948?

A. It might have failed in Section 78.

Q. In what respect?

A. Referring to according of priority to apprentice on his admission to the union.

Q. If it should appear that that paragraph 78 as it now appears in this document is narrow, and that the words quoted "and his admission into the union" were not agreed to by the parties tentatively, wherein would this tentative agreement violate the decree of Judge Sweiger in any other respect?

A. I don't know that there is any other place where it might have violated the decree.

Q. Was the language which you used prior to the enactment of the Labor Management Relations Act of 1947 intended by the Executive Council to mean that the I.T.U. guaranteed performance by the local?

A. No, it was not.

Q. What did it mean?

A. It meant that the Executive Council used whatever authority it had to secure performance of the agreement by the local union.

[3653] Q. That is the authority which we have discussed here so frequently, is it not? About the submission of disputes to the Executive Council for its determination?

A. No. Over a long period of years the Executive

Council has been able to insist that local unions comply with the contracts and with the laws of the union. It has insisted upon that in a number of instances to the point of expelling members of the union if they refused to comply with their contracts. It is an internal remedy that union has exercised and not an external one. The question of the liability financially of the International Typographical Union since the Taft-Hartley law was adopted is a very important question to us and to assume that the International Union would underwrite as the word has been used, not by me, however, it implies a certain financial responsibility. We do not accept such a financial responsibility for local union contracts.

Q. You think the local union accepts responsibility for its contracts?

A. Whatever the law provides they have, that is what they have.

Q. Do you think the other parties of the contract assumes any responsibility for its commitment?

A. That is determined as a matter of law.

Q. You think if a publisher agrees to pay a certain wage scale is he obligated to pay it?

[3654] A. No question about that.

• • •

Q. (By Mr. Hanson) Mr. Randolph, turning back to section 84 of the tentative agreement between the scale committee and the publishers, will you tell me in what respect that section violated any I.T.U. law?

A. That is the one I just got through discussing on that point. 84?

Q. Yes.

A. We discussed that point.

Q. On Taft-Hartley law we discussed it.

A. No.

Q. How about I.T.U. law?

A. It was on I.T.U. law I was discussing it.

Trial Examiner Leff: Let us have that again briefly.

The Witness: The third, the section beginning, "Third, journeymen with experience in other composing rooms in greater New York" was the one we discussed as being in violation of [3655] our priority law by according people from greater New York greater priority over those from outside of New York.

Q. Your priority law affects only the members of your union, does it not?

A. When we have got to work under the Taft-Hartley law in preparing contracts, obviously the priority is going to affect whoever is in the composing room whether they are members of the union or not.

Q. That is the only respect which you recall in which it violates the I.T.U. law?

A. I said further that in order that we maintain all of the rights that we think we are entitled to have that are not in violation of the Taft-Hartley law, we suggested a change in the manner of determining competency.

Q. When you were on the stand on May 4, do you recall testifying that vice president Brown did not cooperate with local 6 for preparation of the proposal for the publishers?

A. I testified to that effect.

Q. And do you recall stating that that proposal was done in a very hurried manner because the local union wanted to engage in negotiations at once?

A. I do recall a statement of that kind.

Q. You still want to stand by that testimony?

A. When I said "local Union" in that respect, I undoubtedly was thinking of the local union officers making that kind [3656] of representation.

Q. At the time of your appearance it was pointed out to you that there was a tentative agreement reached between the scale committee and the publishers, was it not?

A. As to an agreement, that I can't go for. An agreement on what?

Q. For a contract.

A. My information was that the local committee agreed to recommend it to the local union. Now, that information, of course, came to me by way of a letter that the local union committee had agreed to recommend it when they transmitted it for approval as being in compliance with our laws.

Q. What information did you get after you went to work on that situation?

A. I just got through testifying to that, that the local union had not adopted any proposals upon which to predicate collective bargaining.

Q. Was Mr. Brown's activity in New York in accordance with I.T.U. law?

A. Mr. Brown's activity was under my direction. I required him to stay there and try to assist in working out a solution in the commercial fields and he was there at the time the local union sent to me their—the local union committee—sent to me a group of proposals that they wanted to be considered, whether or not they were in conformity with I.T.U. law, but [3657] they were quite a mess from our standpoint, and vice president Brown being in New York at the time, and in talking to him over the 'phone on other matters, I mentioned that and asked him to sit with them and help them prepare a set of proposals that would be in accord with I.T.U. law and collective bargaining policy. At my request he did that.

Q. Why were they in such a mess?

A. That is what vice president Taylor told me, and I did not even look at them. He said, "Somebody ought to help them get something together that is in order", so the fact of the matter is he suggested that Mr. Brown do it while he was there and that is the reason I asked him to sit with them and help them prepare something.

Q. It wasn't the fact that up to March 27 local 6 followed the I.T.U. bargaining policy to the line?

A. I don't know of any particular deviation from it.

Q. And after March 27 there was a necessary change in what local unions should do?

A. Because of the injunction.

Q. Yes.

A. Yes.

Q. And you sent out instructions to them?

A. Sent out advice and instructions.

Q. Both?

A. Yes.

[3658] Q. Views and opinions?

A. Yes, even had some of those in.

Q. Now, Mr. Randolph, on Monday you presented a statement to the New York publishers, did you not?

A. Yes.

Q. In that statement you characterized the proposal as one of the Publishers Association, did you not?

A. Will you point out where, please?

Q. Third paragraph.

A. Third?

Q. Yes.

A. I don't see where I made any such characterization.
Q. You assumed it was a publishers' proposal?
A. You mean the one sent to me in Indianapolis?
Q. Yes.
A. Yes.
Q. Then when you were in New York you learned that it was not?
A. That is right.
Q. Also in your statement which you gave out to the press you stated that the publishers association had not made a complete proposal of a new contract to the New York Typographical Union. No. 2 on page 1.
A. That is what it says.
Q. You learned differently while you were in New York [3659] did you not?
A. No, I didn't.
Q. Didn't Mr. Lane state that they had made a complete proposal?
A. I don't think he did.
Q. Didn't he in fact ask you to correct that statement to indicate the facts?
A. He asked me if I wanted to make a change in the statement and I said "no".
Q. At your first meeting there in New York you flatly said that the local union has no desire in this matter. The local union called the International to do a job and now it has no job in that, did you not?
A. I was asked with regard to whether or not the local union had any desires as to whether they wanted to sit in these meetings because as far as I knew they had no desire in the matter. I further stated that I was there in my capacity as president of the International Union to do a certain job, and I would determine who would represent the International Union.
Q. And did you not inform the publishers that there was a line down the middle of the table that they could not cross?
A. Words to that effect.
Q. What you did was your own concern?
A. Some more of that making of notes, I suppose, by publishers [3660] to put in the proceedings. "Words to that effect.
Q. And you finally stated that you had announced then

that they would deal with you and Mr. Brown beginning Monday?

A. I did no such thing.

Q. Didn't you say, "I will tell you now the plan is Mr. Brown and I will be ready to meet with you beginning Monday. Our plan is Mr. Brown and I will be the ones sitting on this side of the table; if and when we need assistance we will ask for it".

A. Words to that effect, yes. I also suggested if they wanted a stenographer to take down everything, I was quite agreeable.

Q. I believe you suggested that twice, didn't you, Mr. Randolph, or three times?

A. Twice, I will say, at least. Evidently they had somebody in the ante room taking it down.

Q. In your statement which you gave to the publishers on May 10, you made this statement, did you not: "It is our purpose to exert such influence and authority as we may possess to the end that good faith collective bargaining between the New York Publishers Association and the New York Typographical Union No. 6 will result in a term agreement containing lawful clauses that amply protect the legitimate interests of all parties"?

That is on No. 3.

[3661] A. It appears you read it correctly.

Q. Your next sentence: "It is sorely regretted that our attempts to achieve that desirable objective have been impeded by excessive conduct on the part of others."

A. That is right.

Q. What excessive conduct were you referring to?

A. Some by Elisha Hanson; others by George Dale; others by the National Labor Relations Board counsel. All of them injected themselves into our collective bargaining processes to try to make them impossible.

Q. Did Elisha Hanson inject himself into the New York City situation?

A. He has been injecting himself ever since the Taft-Hartley law has been passed.

Q. Did you have any knowledge that Elisha Hanson injected himself into the New York Situation?

A. He injected himself in these very meetings last week when I testified. He tried to get everything he could by way of information from me to try to determine what

would be done in New York in the collective bargaining sessions and he is doing it now.

Trial Examiner Leff: I think you have the wrong attorney. I don't think Mr. Hanson asked any questions of you on that subject.

Q. (By Mr. Hanson) Did George Dale inject himself in [3662] the meetings in New York?

A. I am talking about our attempts to achieve desirable objectives in collective bargaining. That is all over the country. It doesn't make any difference. The New York pattern was identical with other patterns. The same questions asked, the same attempt to get the union to commit itself as violating the law. It is the same pattern that I testified to in Indianapolis and read out of the bulletins from A.N.P.A. to publishers. They all did the same thing. They followed those bulletins.

Q. Were any of those bulletins issued prior to the adoption of the bargaining policy at your convention in August, 1947?

A. The bulletins have been issued for years.

Q. I mean any of the bulletins to which you refer.

A. The record will show when they were issued. I can't tell you.

Q. Very well. I believe you testified in this case that with two exceptions there were no deviations from your bargaining policy by your people.

A. That is a matter to be expected. I am not the union. The union cannot possibly conceal its purposes but you people can. Once in a while they get something. The bulletins indicated what your party line was and you have followed it very well. That may be creditable to you.

Q. You get all the bulletins Mr. Dale's office issues, [3663] don't you?

A. I don't think so. We get some of the published bulletins.

Q. Do we get your confidential letters to your members?

A. I hope not, but I find a lot of them show up. I have not been able to write one yet that has not shown up in one of these proceedings. If I can write one I would like to know when.

Q. What attorneys for the General Counsel of the N.L.R.B. injected himself into the New York newspapers negotiations?

A. They tried that last week. The Examiner told them to hold off until after the negotiations. Now you are supposed to be engaged in that New York negotiations which still has not taken place.

Q. Didn't they hold off?

A. No, they didn't. They were still at it even though the Examiner told them not to. All of this, all of this that you have been engaging in about New York, is for the sole purpose of attempting to have me state here as a witness what our policies are going to be from now on and forever on everything.

Q. You stated that members of the union will readily realize that the I.T.U. is being persecuted by governmental and A.N.P.A. agencies for selfish and ulterior motives. Did you really mean that.

A. That is one of the statements of views and opinions.

[3664] Q. One of the statements of views and opinions. In what way have governmental agencies persecuted the I.T.U. law?

A. They have been at it ever since they filed the first charges.

Q. Governmental agencies did not charge, or file charges against you.

A. Ever since the employers filed their first charges.

Q. The governmental agencies are required to consider charges.

A. I expressed a view and opinion and I still believe it.

Q. In other words, you think you are being persecuted?

A. I know it.

Q. On what basis do you know it?

A. From what I have been going through in the last six or eight months.

Q. You stated in your letter to the New York Publishers Association, "The officers of the I.T.U. do not possess and do not assert the policy to act as a collective bargaining agent," Did you not so state?

A. That is right.

Q. Yes, didn't you admit on the stand here that the final power over all these contracts between local unions and employers was vested in the Executive Council of the I.T.U. by reason of the I.T.U. law?

A. I did not.

[3665] Q. Isn't it so vested?

A. No.

Q. Can any local union enter into a contract with an employer in accordance with I.T.U. law without first submitting its proposals to you as the international president for approval before they are submitted to the employer?

A. They cannot legally do so.

Q. Can they enter into an agreement without first submitting the tentative agreement arrived at to you for your approval before submitting it to the local union for a vote?

A. Not legally.

Q. Not under I.T.U. law?

A. No.

Q. Then you admit now, do you not, that the final authority over these contracts is vested in the Executive Council, do you not, under the I.T.U. law?

A. No, I don't.

Q. Where is it vested?

A. In the local union when it votes on whether they are going to take it.

Q. But they can't vote on anything legally under your law that has not been accepted or received your approval.

A. My approval is whether it complies with I.T.U. laws and collective bargaining policy.

Q. And if a local union differs with the Executive council, [3666] the local union has to obey the mandate of the Executive Council or risk the penalties of I.T.U. law, does it not?

A. When you say "risk", of course, you are stretching it a little bit.

Q. You stretch it?

A. They can't legally adopt a contract that has not had the approval of the I.T.U. Executive Council as being in compliance with our laws and collective bargaining policy.

Q. Did you really mean it when you said in this statement to the publishers that the Executive Council members do not and cannot initiate or accept proposals on their own, independent of local authorization and ratification?

A. That is correct.

Q. What did you do when you wrote that letter to Mr. Victory, Mr. Randolph, except initiate proposals?

A. No, didn't issue any proposals at all, or initiate any. We analyze the proposals submitted to the Executive Council, and gave Mr. Victory the benefit of our judgment

as to whether or not they complied with I.T.U. laws and collective bargaining policy.

Q. And you also gave him certain sections which you said must be included in any contract that was accepted—that was reached?

A. No, I didn't say that.

Q. In order to obtain approval of the I.T.U. law they [3667] had to be included, or their equivalent, and, in turn, approved by the Executive Council, did you not?

A. What we said in the letter was read a while ago, as follows: "Wherever the word 'should' has been used in reference to any change suggested, it is not used in a permissive sense as to the subject covered. The word we have used will be 'approved'. Any deviation therefrom is to be approved by the Executive Council before being submitted to the Union."

Q. Insofar as the matter of initiating proposals is concerned you did not initiate a proposal on new processes, machinery and equipment, did you not, in that letter to Victory?

A. We did not initiate a proposal. We made a suggestion as to what we thought was required to meet the requirements of our law and policy.

Q. You instructed him to insist that the contract containing the clause be sent to him, did you not?

A. No, didn't do anything of the kind. I told him the subject matter had to be covered and I just read you the language of the letter covering that point.

Q. You will admit that you were not properly called to New York in this situation, won't you?

A. I think that is so.

Q. You expect to go back?

A. If and when proper request is made I will go back. I [3668] always respond to those requests either personally or by proxy because they are duties prescribed for me by the Book of Laws.

Q. You can delegate someone else if you want to.

A. I said in person or proxy.

Q. Speaking of the persecution of your union, A.N.P.A. had nothing to do with the adoption of the bargaining policy at the Cleveland convention, did it?

A. The A.N.P.A. had nothing to do with it?

Q. Yes.

A. I doubt that they did.

Q. Elisha Hanson didn't have anything to do with it, did he?

A. I don't recall that he did.

Q. George Dale?

A. No. He could have been there had he wanted to, but he did not come.

Q. He wasn't invited?

A. It is a standing invitation of our Book of Laws.

Q. Did the General Counsel of the Labor Board have anything to do with it?

A. No.

Q. In the next to the last paragraph in your statement to the publishers on Monday you state: "If the Publishers Association of New York City is sincere in its declaration of [3669] good will and intention, there is no reason why an amicable settlement cannot be worked out."

Who do you expect will work that settlement out?

A. I don't know. The local union may work it out. If I get it, I might help work it out; the publishers may work it out themselves.

Q. Did you advise the local union of the contents of this statement before you read that to the publishers, or handed it to them?

A. Yes, I did.

Q. How long before?

A. About ten minutes.

Q. Have you given any later instructions to them or advice?

A. No.

Q. Is the local union now a free agent to deal with the publishers?

A. It is just as free an agent as it has always been and it is bound by the laws just the way they have always been bound.

Q. Still bound by I.T.U. law?

A. Why, certainly.

Q. From this time out, is it obligated to obtain approval of the Executive Council of any proposals that it submits to the publishers?

A. It is obligated under our laws to submit to the president [3670] of the International Union for approval as complying with our laws any proposals that it desires to present to the publishers.

Q. Before acted upon any proposal that may be submitted to the publishers is, in turn, required to be submitted to the president of the International under I.T.U. law?

A. That is also provided for in our Book of Laws and repeatedly referred to in Section 2 of Article III. I.T.U. General Laws, as follows—

Trial Examiner Leff: I think we know it.

The Witness: Memorize it?

Trial Examiner Leff: Yes.

Q. (By Mr. Hanson) Then in fact, Mr. Randolph, when you said you were out of the picture for the present, you really didn't mean that, did you?

A. Of course I did.

Q. You still have to review any proposals that they make or receive, don't you?

A. That picture is the picture of me sitting around a table in New York with the employers.

* * *

[3671] Q. (By Mr. Reilly) Mr. Randolph, in answer to Mr. Hanson's question as to the New York proposal, it was disapproved because it was in conflict with law of the union. I think you stated in effect that certain clauses were disapproved for that reason but others disapproved for reason of policy. Is that the substance of your testimony?

A. That is right.

Q. Is the policy you referred to the convention policy which appears in Article III, Section 1?

A. That is right.

Q. And I think you stated the other day, did you not, that the Executive Council is still interpreting, construing, and enforcing that policy?

A. That is right.

Q. And I believe you stated, did you not, at the Baltimore hearing, that the essence of the policy was the preservation of the three objectives (1) the right to work on union products; (2) the right to refuse to work with non-union men and (3) the preservation of the union jurisdiction.

A. That was three of them?

Q. Yes. And the Executive Council is still pursuing that policy, is it not?

A. The laws and policy in the second paragraph states, "It is our policy that we maintain our historic rights and prerogatives to which we are entitled and which we have [3672] enjoyed for nearly a century." That is of course, within the law of the land.

Q. I wonder if you would mind picking up Board's Exhibit 92 and look at Section 4, the so-called laws clause. Is there any requirement that local unions insert a laws clause in their collective bargaining agreements?

A. Is there any what?

Q. Any requirement on the part of the International that local unions must always insert a laws clause in their collective bargaining agreements?

A. That is accomplished by the Section 2 of Article III, I.T.U. General Laws, and in order to get the compliance with I.T.U. law, it is necessary to put in the contract that kind of commitment.

Q. In other words, that is the official construction that has been placed upon it so that if you saw a contract proposal that was submitted to you by a local and did not contain a laws clause, you would say the mere absence of that clause was a ground for rejecting it under Section 2 of Article III. Is that correct?

A. Rejecting it as being not in compliance with law, yes.

• • •

Q. My question was: Let us assume the contract on its face did not express it, did not violate any International laws, but it did not have an undertaking that the General Laws of the International would govern the relationship of the [3673] parties. Is the absence of that clause a ground for saying that the contract does not comply with the requirements of the International law?

A. That is right.

Q. Now, you indicated that the proposed deletion of that phraseology which would have provided that the shop rules of the publishers would have governed to the extent that they were in conflict with federal or state law, or with the rules of the shop law of the Union. You indicated that that deletion was made because of some International law.

A. A matter of International policy.

Q. Is it a matter of convention policy, the collective

bargaining policy of the convention, or is it a matter as distinguished from a matter of law?

A. A matter of our interpretation of what a contract should contain under our laws and collective bargaining policy. For ages the union has had its laws with respect to a minimum of working conditions in the plant. It has never had publishers' laws referred to. It has had the employers' office rules referred to and they are referred to in our laws as operative in proposing rules. We do not conceive that it is within our law to enlarge the scope by taking on publishers' laws which may be on conflict with ours.

Q. What is the difference between a publishers' rules and what you call office rules? You said the word "office" [3674] in your laws to designate an employer in the newspaper industry.

A. It is the same thing. The composing room is operated through the foreman and the office has a right to post office rules for the members. That is a long-established principle and we do not conceive it is within our rules of policy to step in another sphere of laws which may or may not interfere with any of these conditions.

Trial Examiner Leff: Hasn't it always been the policy of the publishers to post shop rules?

The Witness: Office rules, yes, in the composing room. But that is not what this refers to

Trial Examiner Leff: What does this refer to?

Q. (By Mr. Reilly) I want to call your attention to the fact the word "laws" is not used in that paragraph. The word "rule" is used.

A. There is a long custom of having chapel rules that govern the members of the chapel. There are also local union laws that govern members of the union, and there are also office rules that govern men in the shops. But the injection of another kind of laws, publishers' law or rules, was something foreign to our concept of what we can adopt under our collective bargaining policy and laws of the Union. It is an injection of a new element that we cannot approve because we don't know how far it will go. [3675] Trial Examiner Leff: What I don't understand is: What is in the collective bargaining policy or in your general laws which would prohibit an employer from posting its own office rules?

The Witness: Nothing. That is provided for in our contract. But this says "publishers". That means the New York City Publishers Association, so far as I understand it to mean.

Q. (By Mr. Reilly) In Section 1 of this contract, the word "publisher" is also used, also appears. It indicates that it means the individual publishers.

A. This contract is between the Publishers Association of New York City and the New York Typographical Union No. 6.

[3676] Q. It goes on to say, "as agent of the following individual publishers". I am reading from the preamble. And I draw your attention to the fact that it says, "Its or their own affairs". In other words, that this particular language to which you took exception apparently must refer to individual publishers, otherwise the term "it" would be meaningless, wouldn't it?

A. "Its or their own affairs."

Q. Yes.

A. Now, whatever meaning it has I don't know. We conceived that it is an addition of something new that we don't understand and we don't want it. It is not in conformity with our historic method of bargaining and it is not encompassed in our book of laws, nor in our policy and we conceived it our duty to advise the local union that we could not approve a contract recognizing a departure from our basic policies.

• • •

Q. Well, was not a clause like that included in New York contracts prior to the contract which expired on April 1st, 1948?

A. I don't know of any such provision.

Q. Prior to the amendment of Section 2, Article III, they added the words "and policy and approved as such". Would you have had the authority to have deleted that language in view of the fact that there is no clean-cut conflict between [3677] that and some general law of the ITU?

A. I don't know. It is something that did not occur. When anything basic occurs the executive council undertakes to make a decision concerning it.

Q. Well, your powers now are broader, are they not, since the addition of the words "and policy"?

A. They are broader, yes.

Q. Would you please turn to Section 84 of the contract? I believe you said that the executive council deleted the third clause which gave preference to journeymen with experience in other composing rooms in Greater New York on the ground that that was contrary to your laws with respect to priority. Is that not so, sir?

A. That is right.

• • •

Q. Now, do not the priority laws, generally speaking, tend to give preference to a member of a local in his old job or in a job in that vicinity in contradistinction to members of the ITU in general?

A. No.

Q. Well, let us turn to those laws that begin on page 111. Now, according to Sections 2 and 3 under which the locals establish a priority list in the various chapels it would normally work out, would it not, so that as compared to the outside world those members would be given preference in employment?

[3678] A. No. I refer you to Section 1 which says:

"Persons considered capable as substitutes by foremen shall be deemed competent to fill regular situations, and the substitute oldest in continuous service shall have prior right in the filling of the first vacancy. This section shall apply to incoming as well as outgoing foremen."

Q. But come down to the next section.

A. That only applies to the establishment of a system of registering and recording the priority standing of members.

Q. But from the very nature of that section would not members in that local have preference in employment as against members of other locals?

A. Well, members of other locals would not work within the jurisdiction of that union. They have to become members of that union before they can, work there.

Q. Unless they have a traveling card.

A. Yes, they have to have a traveling card from the other local and deposit it in that local and then they are members of that local. Then if they want to establish priority in a particular shop they have to show up in the particular shop and establish it, and the second section applies to the method of recording their priority standing in that office.

Q. Yes, I understand that relates to the mechanics of it.

[3679] A. Yes.

Q. But the point I wanted to bring out was the traveler, the man with a card, has to get into that local before he would even get on that priority list, isn't that so?

A. That is right.

Q. Yes. Now, outside of the fact that a man who might have had experience in other composing rooms in Greater New York might be a non-union man, how does that system differ, purely in essence, from the system which was contemplated in the original draft of Section 84?

A. The section having to do with the joing examining board—

Q. No, no, I am not getting down to that. I am still on the third clause, the one about journeymen with experience in other composing rooms in Greater New York.

A. Well, that section would give New Yorkers preference over people coming in from the outside.

Q. But under your priority system members of the local who, presumably, are residents of the city have preference over members of other locals. A man coming in on a traveler's card has to be voted on and accepted as a member of the local, is that right?

A. No, he is a member of the local union but he may not have had any experience in any New York composing room.

Q. But if composing room work was tight in New York there [3680] is no obligation, is there, on the part of the New York local under the priority system to admit a member of the Chicago local, let us say?

A. The local union must receive any traveling card that is in date and in good standing. Any member has a right to become a member of the New York union by depositing his traveling card. He may not have any experience in a New York composing room but be a member seeking work there. As against him this section would discriminate.

* * *

Q. Then why in your Victory letter when you referred to the effect of that particular section did you give as the reason the fact that it would give a chance to a,—would

open up newspaper composing rooms to all those who worked in Greater New York, union or non-union, giving such applicants preference over members from outside New York?

A. The point I just made, members coming from outside who then become members of the local union, but who haven't had experience in New York composing rooms, would be discriminated against by this section. Now, Mr. Hanson pointed out that we might have used the word, "Giving such applicants preference over journeymen from outside of New York" and that is just as valid because whether they would be members of the union or not, under the Taft-Hartley law if they were employed they would get the same consideration but they should not get superior consideration.

[3681] Q. When I was examining you the other day I referred to a particular section of the laws under which the International president had the right to supersede a local and you corrected me by saying that no one had any authority to supersede a local. Do you remember that?

A. Oh, words to that effect. I said we did not supersede local unions.

Q. Yes. Now, at this meeting in New York on May 7th, about which you and Mr. Hanson had a colloquy, didn't you in response to a suggestion by Mr. Lane that there be some representatives of the local present at the meetings, didn't you tell him that the local union has no voice in the matter since it had called in the International?

A. Whether I used those words or not I wouldn't say, but I did point out that as president of the International Union coming in there under Article 19, it was my business to determine who would represent the International Union; that if I needed any assistance from the local union I would ask for it. That attitude on my part was due to the insistence on the part of the New York Publishers' spokesman that a local committee be present.

Now, it has always been customary for the International president or his proxy to use his own judgment about that and during the negotiation of the expired contract the International president and I think two officers met with [3682] the New York Publishers' committee in an effort to reconcile the differences and bring out a proposal from the

publishers that could be recommended to the local union. That was successfully completed. At other times the local committee has been present at the request of the International representatives or officers, it is nothing new in the situation, but I did resent the persistent and insistent efforts on the part of the spokesman for the New York Publishers Association to determine who should represent the International Union.

Q. Well, didn't you go so far as to say that you would determine who would represent the local union?

A. I did not.

Q. You did not?

A. No, I did not.

Q. Let me refresh your recollection. You were there, however, not to negotiate a contract between the International and the Association but between the local and the Association, were you not?

A. No. I was there to do just what the law book says, attempt to compose the differences and that procedure has always resulted in a proposal or what we term a counter-proposal by an employer which can be transmitted to the local union with or without recommendations. The employer under our system has the opportunity that regardless of what a local union proposes he has the right to make a counter-proposal [3683] for settlement through the president of the International Union or his proxy and if such a settlement can be reached through a counter-proposal it is done and that has been the procedure for a great many years and has avoided strife in the industry.

Q. Well, as a practical matter, however, before any counter-proposal is submitted to the local hasn't it been your experience that the terms of that counter-proposal, although it may be called an employer's proposal, is really worked out by a good deal of trading and interchange between the two scale committees?

A. The two scale committees usually work out some things.

Q. Yes.

A. In the last contract in New York they had worked out very few and the counter-proposal of the publishers was made on a basis of what the members of the executive council would recommend to the local union for adoption.

Q. (By Trial Examiner Leff) May I ask a question?

When you enter into negotiations in such a situation for the purpose, as you say, of composing the differences between the local union and the publishers, do you regard yourself simply as a mediator or as a representative of the local and the ITU?

A. Well, when you attempt to compose the differences you take the differences that you find there. You don't create [3684] some more. You take the things that the parties have been trying to get together on and try to work out a settlement that will be satisfactory to both.

Q. Yes, I understand, that is the purpose of any agreement, but do you look upon yourself in that situation as a representative of the union or simply as a mediator?

A. Well, I only look upon myself as the president of the International Union doing the things our book of laws calls for and I don't represent the local union, as a collective bargaining agent.

Q. Well, do you represent it in any way?

A. Well, only in so far as I am the president of the International Union doing a job as provided for in the book. Taking a technical position such as may be important under the National Labor Relations Act, I am not representing the local union.

Q. Well, under your constitution, and by-laws and general laws the local union delegates to you certain functions, does it not? When I say "you" I mean the International or the president of the International.

A. Well, whatever delegation there is is in the book itself.

Q. Yes. The book says that all authority not delegated to the International is reserved to the local.

A. That is right.

[3685] Q. So that the International is delegated certain authority, is that correct?

A. That is right.

Q. And isn't there among the delegated authority the right to come in in cases of a deadlock between a local and a local publisher and try to resolve the differences? Isn't that correct? Isn't that one of the duties that is delegated to the International?

A. It is one of the duties that is delegated through the making of such law by the membership.

Q. Yes. And when you come into a local situation to

resolve differences you are acting, are you not, pursuant to that delegation of authority?

A. I am but the delegation is made on behalf of all of the unions and not any one particular local. All of the unions have to contribute to pay strike benefits if there is trouble and, therefore, in this procedure whereby the trouble is avoided through the International president, he in effect, represents more the other unions than he does that union.

Q. In that sense you are acting, are you not; in a representative capacity of, as you say, all the unions when you enter into local negotiations?

A. I would say all unions as constituting the International.

Q. Including the local involved in a deadlock.

[3686] A. All of them, yes.

Q. (By Mr. Reilly) Now, coming back to the matter of your role in those conferences you speak of being there to have the employer make a counter-proposal, but as a practical matter don't you give Mr. Brown or Mr. Taylor, whoever comes in, authority to bargain with the employers as to what the text of their counter-proposal will be before you submit it to the local?

A. Well, in the sense of trying to arrive at a satisfactory solution there has to be bargaining about the things that are in controversy.

Q. Yes. So that in that sense, although the local membership may when the thing comes up for ratification have the final say, to the extent that you do the bargaining on the formulation of this employer's counter-proposal you have superseded the local for the time being, have you not?

A. No, no. The bargaining is done in order that we arrive at something that the executive council can recommend to the local union for adoption. If, on the other hand, nothing of that kind is arrived at—in other words, a settlement may be arrived at that would be acceptable to the local union but which the executive officers would not recommend. If the proposal of the publishers met the requirements of the ITU law and collective bargaining policy but, for instance, it was not such an offer on wages that the executive council [3687] would want to recommend it and it did not recommend it, the local union might adopt it.

Q. You mean there might be occasions where the publishers say, "Even though you don't want to agree with our counter-proposal we insist that you submit it to the local membership"?

A. If it is in accord with our laws and bargaining policy it would be so submitted.

Q. Now, when you spoke of intervening to compose differences, so far as this New York situation is concerned there were not any differences between any of the local parties, were there? So far as there were differences they stemmed, did they not, from your position, to the extent that they were in harmony, that it was in conflict with union law?

A. I found out there was no disagreement between the subordinate union and the employer within the meaning of our laws and so advised the employers.

Q. Now, when a supplement is worked out between the representative of the executive council and the employers can't the local be mandated to accept that settlement if the executive council so chooses?

A. No.

Q. What limitations do you find in the laws which will prevent that being done?

A. I can't point to you a law except that we derive our [3688] authority from the book of laws and there is no such laws on the books giving us that authority.

Q. Well, doesn't Section 1 of Article III give you that authority?

A. No.

Q. (By Trial Examiner Leff) Doesn't it boil down, to this, Mr. Randolph, that the International has no right to make a contract for the local but it does have a veto over the contract that the local may desire to make itself, a veto power over a contract that is not approved by the ITU?

A. No. The executive council has the right to determine whether or not a proposed contract is in accordane with ITU law and its policy and make a declaration thereon. That is transmitted to the local union. They have no legal right to adopt a contract that cannot be so approved.

Q. Isn't that in effect a veto power?

A. No.

Q. Unless the contract and all its terms is in conformity with the ITU laws and collective bargaining policy?

Mr. Van Arkel: I point out, Mr. Examiner, that I think the use of the term "veto power" is patently wrong.

Trial Examiner Leff: The question is argumentative and will be withdrawn.

Mr. Van Arkel: The laws spell out the circumstances under which a contract may be disapproved and it is obvious [3689] that it can only be done for certain purposes and then only in accordance with the laws adopted by the union itself.

Mr. Hanson: I want to point out, Mr. Examiner, that if they do not have the power they certainly exercise the power of instructing a local union what to put into agreements in order to obtain their approval. The Victory letter demonstrates it.

The Witness: In order to obtain their approval. There is no mystery about that.

Mr. Sinsheimer: We are not getting anywhere by this play of semantics which has been thrown into this case and I think the record will show pretty clearly what the fact is.

The Witness: The law book will show that without the record, Mr. Sinsheimer.

• • •

[3693] *Recross Examination.*

• • •

[3694] Q. You mean that you have never entered into a situation at that stage where there was a disagreement between the scale committee and the publisher?

A. Not in that fashion, no. My letter to the publishers clearly indicates that.

Q. You have always insisted that the local union must vote on the proposal first?

A. That is right.

Q. And you know of no exceptions?

A. I know of none.

Q. Could there have been any?

A. Sir?

Q. Could there have been any?

A. There were none that came to my knowledge.

• • •

[3699] • • • WILLIAM MAPEL called as a witness on behalf of the General Counsel, having been first duly sworn, was examined and testified as follows:

Direct Examination by Mr. Sinsheimer.

Q. Please state your name.

Trial Examiner Leff: What is your full name?

The Witness: William Mapel.

Trial Examiner Leff: Where do you live, Mr. Mapel?

The Witness: My home is Bronxville, New York.

Q. (By Mr. Sinsheimer) By whom are you employed, Mr. Mapel?

A. The Publishers Association of New York City.

Q. In what capacity?

A. I am the vice-chairman.

Q. How long have you been employed by that Association?

A. Roughly seven years.

Q. And have you been the vice-chairman during that period?

A. Since 1944.

Q. Prior to that time what was your position?

[3700] A. I was executive secretary immediately before being elected vice-chairman.

Q. What is the nature of the Publishers Association of New York City?

A. It is a voluntary membership association.

Q. Consisting of whom?

A. Consisting of the leading daily newspapers of the five boroughs of New York City and the Jersey Journal in Jersey City.

Q. This association is unincorporated, is that right?

A. That is right, sir.

Trial Examiner Leff: I think we should have the names of the members.

Q. (By Mr. Sinsheimer) Will you state the names of the member newspapers?

A. Yes. The New York Times; New York Herald-Tribune; News; Mirror; Journal-American; Post; Sun; World Telegram; Wall Street Journal; Journal of Commerce; Long Island Press; Long Island Star-Journal; Bronx Home News; Il Progresso Italo-Americano; Brooklyn Eagle; and the Jersey Journal.

If I have omitted any may I have a right to submit them? I think I have them all.

Trial Examiner Leff: Yes.

Q. (By Mr. Sinsheimer) How is the Association supported?

A. It is supported by dues and assessments.

[3701] Q. Does this Association have by-laws or a constitution?

A. Yes.

Q. Who are eligible to be members of the Association?

A. Daily newspapers in New York City may make application for membership in the Association.

Q. What authority does the Association have with respect to acting on behalf of its members?

A. With respect to labor contracts?

Q. Strike that question. For what purposes does the Association exist?

A. Well, the Association exists, broadly, for the meeting of problems common to its members, the most significant of which is the matter of labor relations.

Q. And in connection with labor relations what are its functions?

A. It acts in an agency capacity for such of its members as wish to have it act in the negotiation of collective bargaining agreements and any matters arising under such agreements.

Q. Now, does that mean that it acts as the agent of all of the newspapers in New York that are members at all times?

A. With respect to any given contract it acts as agent for such of its members as so desire. To explain that, not all of our members are represented by the Association in its agency capacity in so far as all contracts are concerned. [3702] On some contracts we have a great many members asking us to act as agent and on other contracts we have only a few members. It is within the wish and desire of the individual member and that wish causes us to operate as agent in behalf of that member.

Q. So that the number of members whom the Association may be representing in a given year may vary from year to year, is that right?

A. With respect to a given contract, yes.

Q. For how many years has the Association carried

on bargaining negotiations on behalf of such members as authorized it?

A. Nearly fifty years.

Q. And that is with various unions?

A. Yes.

Q. Has that been true all the entire fifty years with the International Typographical Union?

A. It has been true since some month in 1907.

Q. No, during the year 1948 there have been bargaining meetings between the Association and New York Local 6 of the International Typographical Union, is that right?

A. That is right.

Q. Now, in those particular meetings how many members of the Association has the Association been authorized to represent?

[3703] A. At the beginning of the negotiation the Association represented fourteen newspapers. By the time the negotiations had been completed the number had been reduced to thirteen.

Q. You mean as of the present time?

A. There are thirteen.

* * *

[3704] * * * Q. (By Mr. Sinsheimer) As of April 15th had the New York Publishers Association and Local No. 6 agreed on the terms of a proposal which the local scale committee agreed to recommend to its members for adoption?

A. The accredited representatives of the parties so had agreed.

Q. Now, in the year prior to the present one approximately how many members authorized the Association to represent them in negotiations or bargaining meetings with Local 6 of the International Typographical Union?

A. Approximately thirteen.

Q. Has that been true for several years past?

A. Yes.

Q. Now, prior to 1948 were contracts entered into between the Publishers Association on behalf of the members who authorized it to represent them and Local 6?

A. Yes.

Q. For what term was the latest contract?

A. One year.

Q. When was that entered into?

A. As of April 1, 1947.

Q. And were contracts for years prior to that entered [3705] into for periods of one year for several years past?

A. No. The periods varied. The average is somewhat in excess of one year. Some contracts have been for three years, some for two and some for a year and seven months or a year and nine months, some for one year.

Trial Examiner Leff: Have any been for less than a term of a year?

The Witness: Back many years ago, at the period following World War No. I, there were some contracts, I think two, which were for a period of less than a year and for reasons with which I am not familiar, but reasons which I am told had to do with the reconstruction period following the last war and the adjustments which came into the inflated era immediately thereafter.

Q. (By Mr. Sinsheimer) Do you know what the period of those agreements were?

A. I don't know, Mr. Sinsheimer; I don't have anything here to refresh my memory on that.

Q. Have all of these agreements with the Typographical Union for composing room employes been closed shop agreements?

A. That is right.

* * *

[3706] * * * Q. (By Mr. Sinsheimer) Now, in 1948 you commenced negotiations with the local union about what time?

A. The first meeting was on the 5th day of February 1948.

Q. Now, can you state what occurred at the first meetings with the local union?

A. Yes. At the first meeting on February 5th the representatives of the local union expressed a desire to offer to the publishers Conditions of Employment. The publishers made clear at that time that, first, they wished to have assurance on two matters: One, they wished assurance from the union that it was qualified and able and had the authority to execute a contract firm in term for at least one year and completely within the provisions and requirements and restrictions of the law.

It was on this note that several meetings were carried on. The publishers said to the union they did not wish to receive from the union a proposal having to do with conditions of Employment, they did not wish to receive anything from the union until they had been given an answer on those two points.

Trial Examiner Leff: What was the second point?

The Witness: The second point was a contract completely within the law and the first point was a contract firm in [3707] term for at least one year.

Q. (By Mr. Sinsheimer) Where were these meetings with the local union held?

A. They were held in the conference room in the offices of the Publishers Association in the Times Tower, 1475 Broadway, New York City.

Q. And who were present representing the publishers throughout these meetings?

A. Various representatives of newspaper signatory to the contract under which the parties were operating. The composition of the publishers' committee was not always the same but was substantially the same. I say that because on occasion a given individual who had been representing his newspaper might for one reason or another be unable to be present and someone else might come from that newspaper.

Q. Were there certain persons who were present throughout?

A. Oh, yes. The minutes of the meetings will show that there were certain persons who were there at all of the meetings and most of the persons who were at virtually all of the meetings.

Q. Were you present at all of the meetings?

A. I was.

Q. Was Mr. Lane present at all of the meetings?

A. Mr. Lane was present at all of the meetings. Mr. Lane is chairman of the joint negotiating committee and was so [3708] elected on motion by the union spokesman, he was unanimously elected as chairman of the scale committee. I think Mr. Lane has been elected chairman of the Typographical scale committee for a matter of perhaps more than two decades.

Q. That is the publishers' committee?

A. That is the joint committee.

Q. The joint committee?

A. I might say to you with all of our unions at the first negotiating meeting we elect a chairman and a secretary. By tradition the chairman has been elected from the publishers side of the table and the secretary has been elected from the union side of the table and that was followed at the meeting on February 5th.

Q. Mr. Lane was then elected as the chairman?

A. He was.

Q. And who was elected as secretary?

A. Mr. John J. Landey, a member of the union.

Q. Now, were certain union representatives present throughout all the meetings?

A. Yes. I think an examination of the minutes will show that there were at least one or two or maybe three of the union men who were present at all of the meetings and most of the union committee was present at most of the meetings.

Q. Which members, as far as you know, were present at all of the meetings?

[3709] A. Well, I would have to refresh my recollection by looking at the meeting minutes, at the minutes of the meeting, and I would be glad to provide it if you wish because they show at the top of the names of those present. I know that the presiedut of the union was absent, I think, from two meetings because of other matters.

Q. That is Mr. Victory?

A. That is Mr. Laurence H. Victory. It is just difficult for me to remember if any certain individual was present for the union at all of the meetings but that could be established.

Q. Do you know at which meetings Mr. Victory was absent?

A. I could refresh my recollection and tell you by looking at the minutes of all of the meetings, which I have with me.

Q. I don't think that will be necessary unless someone desires that information.

Well, now, you stated that you had this first meeting February 5th and several subsequent meetings discussing substantially the same matter. Is that correct?

A. Yes, and discussing with some frankness the problem that faced us individually and jointly and the stumb-

ling blocks which we jointly recognized as being in the way of consummating a contract firm and within the law.

* * *

[3711] * * * Q. (By Mr. Sinsheimer) I believe the question, Mr. Mapel, is what happened at the fifth meeting?

[3712] A. At the fifth meeting the spokesmen for the union orally offered three courses to the publishers. One, Conditions of Employment; two, Form P6-A; and, three, a settlement of economic issues and continuation of negotiations on other matters.

Q. What was said by the publishers, if anything?

A. I didn't get the last part.

Q. What was said by the publishers, if anything?

A. At that meeting?

Q. That is right.

A. The publishers continued to reiterate their position, namely, that they were there to bargain for a firm contract within the law and in line with the kind of contracts we had for many years.

Trial Examiner Leff: May we have the date of the fifth meeting, please?

The Witness: The fifth meeting was on March 2, 1948.

Q. (By Mr. Sinsheimer) Did anything else occur at that meeting?

A. Yes. At that meeting the publishers formally offered to the union what they called "Mutual Guarantees".

Q. Was that in written form?

A. It was.

Q. Do you have a copy of that with you?

A. I do.

[3713] Q. Will you produce that copy, Mr. Mapel?

A. I have it bound in here. Shall I unbind it?

Trial Examiner Leff: Mr. Sinsheimer has a copy.

Mr. Sinsheimer: I have another copy, if it is agreeable to use it. I will ask the reporter to mark as Board's exhibit 94 for identification a document consisting of one page, headed, "Publishers' Proposal", the words "Mutual Guarantees" at the top of it and the date "March 2, 1948" at the bottom.

(The document above referred to was thereupon marked Board's Exhibit No. 94 for identification.)

Q. (By Mr. Sinsheimer) I will show you what has been marked Board's exhibit 94 for identification, Mr. Mapel and ask you is that an exact copy of the document which you submitted to Local No. 6 on or about March 2nd?

A. It is.

• • •

Mr. Sinsheimer: I will offer Board's exhibit 94 for identification in evidence.

Trial Examiner Leff: Board's exhibit 94 is received in evidence.

[3714] (The document previously marked for identification Board's Exhibit No. 94 was received in evidence.)

Q. (By Mr. Sinsheimer) Was anything said about Board's exhibit 94 at the time it was presented?

A. Yes.

Q. What was said and by whom?

A. Statements were made primarily by Mr. Lane and secondarily by myself with respect to the so-called mutual guarantees.

Q. What was said by Mr. Lane or by you?

A. Reference was made to the fact that the publishers were being charged with using the Taft-Hartley Act as an instrument to destroy the Typographical Union and other unions. The publishers offered the mutual guarantees to demonstrate once and for all that these charges were unfounded. Mr. Lane and/or I pointed out to the Typographical Union that the text of the mutual guarantees offered to Typographical Union No. 6 was identical or substantially identical with the text of mutual guarantees which had been incorporated in contracts with the Pressmen and the Stereotypers.

Mr. Lane pointed out to the members of the union committee just what the mutual guarantees offered in so far as the publishers were concerned, and I presume you can get that by reading them.

Q. Now, following that meeting on March 2nd did you have [3715] a meeting with the union on March 23rd?

A. We did.

Q. What meeting was that?

A. That was the eighth meeting.

Q. And what occurred at that meeting?

A. The union offered to us a proposal the socalled job printing formula worked out between the Employing Printers Association of New York City and Local Union No. 6.

Mr. Sinsheimer: I will ask the reporter to mark as Board's exhibit 96 for identification a document the first page of which reads, "Joint Statement of the Representatives of the Printers League Section of the New York Employing Printers Association and International Typographical Union and New York Typographical Union No. 6", consisting of nine pages in all.

(The document above referred to was thereupon marked Board's Exhibit No. 95 for identification.)

Q. (By Mr. Sinsheimer) I show you what has been marked as Board's Exhibit 95 for identification and ask you, Mr. Mapel, is that the document submitted to you by the union on March 23rd?

A. That is a copy of it.

Q. Is that an exact copy of it?

A. I think it is an exact copy.

[3716] Q. And in the form in which it now is?

A. Yes.

* * *

Mr. Sinsheimer: I offer Board's exhibit 95 in evidence.

Trial Examiner Leff: Board's exhibit 95 is admitted.

(The document previously marked Board's Exhibit No. 95 for identification was received in evidence.)

[3717] Q. (By Mr. Sinsheimer) Now, was there any discussion at this meeting with respect to Board's exhibit 95, Mr. Mapel?

A. Yes, there was.

Q. Will you state what was said and by whom?

A. Statements were made primarily by Mr. Lane that this so-called formula was something which had been prepared by and between the Employing Printers Association of New York City and Mr. Randolph and other representatives of the union; that it was something which dealt or purported to deal with the commercial printing phase of the business; that in many respects it was inapplicable to the newspaper business; that, in general, it was not tailored for us, although in certain of its aspects it seemed to have been pointed at us.

Mr. Lane pointed out to the union committee that there were many parts of it which were unacceptable to the publishers; that the publishers had had an opportunity to go over it with counsel, had been advised as to certain legal pitfalls with respect to parts of it; that, in general, it was unacceptable to the Association; that it would be more appropriate for the Association and the local union to bargain their own relationship rather than for the Association to be asked to accept something which fell within the realm of the criticism he had just given.

Q. Was anything else said about that proposal, that is Board's exhibit 95, at that meeting?

[3718] A. Well, I think I have covered it pretty well, Mr. Sinsheimer. That was generally it.

Q. Now, you had in your possession a copy of that particular commercial printing proposal prior to March 23rd, did you not?

A. We did.

Q. That is, you had obtained that at what time?

A. On a day one or two days prior to the date of this meeting word had been given out that a press release with respect to the commercial printing matter with Typographical Union No. 6, a press release would be made at City Hall in New York at one o'clock. The word came around that at this time a formula which reportedly was acceptable to both parties would be given out, along with statements by representatives of the union and of the employers and of the City government. This was public knowledge, public announcement, and I asked one of the young men in my office to go down to the meeting at one o'clock and to ask for copy. He went down there and was given a copy, brought it back to my office. We passed the sheets around to various stenographers in the office and had it typed hurriedly on stencils and duplicated and we made a large number of copies.

Q. Now, did you have another meeting with the union on March 26th?

A. Yes, we did.

[3719] Q. And that was the ninth meeting?

A. That was the ninth meeting.

Q. What occurred at that meeting?

A. The publishers made a formal written proposal to the union.

Mr. Sinsheimer: I will ask the reporter to mark this as Board's exhibit 96 for identification, a document entitled, "Proposal". At the bottom of each page the date of "March 26, 1948" appears.

This is a document entitled, "Proposal", consisting of four pages. The bottom of each sheet bears the date "March 26, 1948".

(The document above referred to was thereupon marked Board's Exhibit No. 96 for identification.)

Q. (By Mr. Sinsheimer) I will show you Board's exhibit 96 for identification, Mr. Mapel. Is that an exact copy of the proposal which the Publishers Association presented to Local No. 6 on March 26th?

A. It is.

Mr. Van Arkel: Well, I renew the objections I have previously expressed.

Mr. Sinsheimer: I offer Board's exhibit 96.

Trial Examiner Leff: Board's exhibit 96 is admitted.

(The document previously marked for identification Board's Exhibit No. 96 was received in evidence.)

[3720] Q. (By Mr. Sinsheimer) Was there any discussion with respect to Board's exhibit 96 at that meeting?

A. Yes, there was general discussion.

Q. By both the publishers and the union?

A. That is right. Mr. Lane went through the proposal, pointing out that certain parts of it needed no explanation and making explanation where such appeared to him to be needed or where questions or when questions arose from the union representation.

Specifically there was discussion of paragraph 5 on page 3, which is headed, "Other Changes", and in which the publishers indicated that matters having to do with wages, hours, and so forth, which normally are worked out in collective bargaining, would fall within this paragraph.

Mr. Lane pointed out to the union that a matter of less than a week remained before the contract would mature and he held out what you have called exhibit 96 as a means of clearing away what seemed to be obstacles in the path of the parties, to the end that this bargaining could take place in the traditional way on wages and

hours. In other words, it was the feeling of the publishers as expressed by Mr. Lane, that acceptance by the union of this proposal then would make it possible for the parties quickly to bargain out the matters covered in general in paragraph 5 on page 3.

Q. Was anything else said about the proposal at that meeting?

[3721] A. Well, with out refreshing my recollection I would not be able to answer. I think that covers it.

Q. Do you recall any statement by the union representatives?

A. Well, I think the union representatives made statements recognizing this as a counter-proposal to the so-called commercial formula which had been offered by them earlier and I recall that they spoke briefly, at any rate, about paragraph 1 which is headed, "Commitment and Intent" and which as proposed by the publishers constituted a joint commitment and intent on the part of the union and the publishers.

I seem to recall that it was pointed out that the intent as expressed in the commercial formula was a unilateral intent and I definitely recall Mr. Lane pointing out that this was a proposal for a contract and anything which should go into a contract by way of commitment and intent should be bilateral and it was with that in view that the publishers had so drafted paragraph 1.

Q. Do you remember discussing in detail the provisions of the commercial printing contract proposal with the union?

A. Oh, yes, in great detail.

Q. At what time?

A. Well, without referring to the notes I would say that we discussed it at the eighth meeting when it was offered, we discussed it at the ninth meeting and we discussed it from [3722] time to time in subsequent meetings.

Q. Did you raise objections to any particular provisions in those discussions?

A. We did.

Q. Which provisions, referring to Board's exhibit 95?

A. Well, as I think I said, we raised an overall objection to the thing on the grounds that it was not tailored for us, it did not fit us, it had not been written with the

thoughts of our problems, our newspaper problems in mind. I think we had expressed it in our proposal where we said, "This proposal further embodies matters discussed with the union representatives on March 23rd, when it was mutually recognized that a so-called formula between the union and New York Employing Printers Association in many respects would not be applicable to newspaper problems".

Now, I think that covers the overall objection. Now, do you wish me to be specific?

Q. Yes. Did you raise specific objections?

Mr. Van Arkel: I would like to have it appear whether or not this was something that was said at the meeting or whether Mr. Mapel is now giving his own view?

Mr. Sinsheimer: That is what I want Mr. Mapel to state, whether you raised objections at these meetings.

The Witness: I thought that is what I was testifying.

Trial Examiner Leff: I think it is fairly clear.

[3723] The Witness: These objections were raised largely by Mr. Lane; I know that I spoke on some of them and I made certain remarks and I am certain that other members of the Publishers' committee contributed to the discussion and these were all in meetings, official meetings of the joint scale committee.

We raised specific objection to the statement of intent made by the League, the League being the Printers League Section of the New York Employing Printers Association. Do you wish me to go into these, Mr. Sinsheimer?

Q. (By Mr. Sinsheimer) Please state what sections or provisions of Board's exhibit 95 that either of you or Mr. Lane or any other representative of the publishers objected to during these meetings and what was said about those sections?

A. All right. Now, with respect to the statement of intent I am not going to dwell on any small things but try to hit the important points. We pointed out that our criticism and our objections stemmed from two sources: One, our business judgment on our own part; and, two, the advice given to us by our attorneys. We pointed out that in certain cases we had fairly definite opinions from our attorneys as to possible illegality of sections of this formula and we pointed out in other cases we were wor-

ried about certain matters because the attorneys had told us that [3724] it would not be prudent to embrace such matters.

Now, specifically we were worried about the section in the seventh line of the Statement of Intent, which picks up following a comma and says, "and to provide the maximum possible union security".

We were further bothered by the following sentence which reads: "The League and its members will not undertake any activity which will in any sense undermine or jeopardize the union's strength or security or the well-being of its members."

We were considerably disturbed and dwelt at length on the following sentence which reads: "It is the intent of the League and its members to limit composing room work to jobs obtained on a normal account basis". Our worry and concern on this sentence came from the fact, one, we thought we knew what it meant and if it meant what we thought it did our attorneys advised us that to join in writing such language into our contract well might be conspiracy in restraint of trade.

Q. Now, these are matters that you expressed to the union?

A. To the union. I am trying to specify just what happened because this all was part of the collective bargaining which preceded the agreement eventually reached.

Q. All right. Now, will you continue to indicate those provisions which you raised objection to during the course [3725] of the discussion or meetings with the union?

A. Yes. With respect to the last provision of that Statement of Intent we pointed out to the union that whereas the commercial printers and Mr. Randolph had worked out an agreement that parties would immediately enter into discussion with a view to the restoration of any clause which had been taken from the contract and later had been held by legislative enactment or by decision of the court of highest recourse to be legal or permissible,—as I say, we pointed out that this was not nearly as welcome to the union as the offer we made in our so-called mutual guarantees, where instead of saying we were willing to sit down and enter into discussion and bargain on such a matter we said that automatically such

a provision would come back into the contract and be governing, even as though it had been written in from the start.

Now, with respect to the jurisdiction provision of the commercial formula we had many questions. We pointed out to the union that we were perfectly willing to indulge with them in the enactment of—

[3726] Trial Examiner Leff: We will resume.

Mr. Mapel, when the union presented the commercial printers' agreement, Board's Exhibit 95, was anything said about the term of that agreement, whether it was to be for a definite term or for a year?

The Witness: No. You see, this presentation of the employing printers' formula was made on the 23rd day of March, and it was not until later that the union said anything which would be an affirmative answer to your question.

Mr. Sinsheimer: I am not sure what the meaning of an "affirmative answer" to the question is.

Trial Examiner Leff: Whether anything was said about the term of the proposed agreement. Did you know at that time whether the commercial printers' agreement was for a fixed term?

The Witness: As I recall it, that had not even been decided yet. The commercial printers' agreement was a sort of a bifurcated prosposition. They agreed on these general principles and intent, the jurisdiction, and hiring, and what-not, and then many, many days later they agreed on the matter of the term and wages and what-not.

Q. (By Mr. Sinsheimer) Referring again to that commercial printers' proposal, I believe you were discussing the matter of the jurisdiction clause that had come up in the discussions with the local union.

[3727] A. Yes.

Q. What was said about that?

A. With respect to the jurisdiction provision, we criticized the first paragraph as being too broad; specifically, we thought it was a dangerous thing to talk about something including classifications "such as". We thought it should be pinned down; there should not be any "such as" to create possible future friction.

Trial Examiner Leff: Was your objection to that clause one based upon practical considerations or what—legal grounds?

The Witness: It is pretty difficult for me at times to draw the difference between a practical consideration and a legal ground. In many cases I can. In some cases we were told by our attorneys who had had only a matter of hours to examine that that we better watch out about such and such, "there might be a legal implication in there, or an illegal implication, rather."

We know from experience with all of our unions that we are on safer grounds if we write contract language which is understandable and not susceptible to whim on the part of any employer representative or any union member and, consequently, we always try to steer shy of anything that is so broad as to say it includes "such as" because that almost assuredly leaves it up to some future arbitrator to determine what we [3728] meant by "such as". We objected definitely to the inclusion of phototypesetting machines in the jurisdictional provision. We expressed concern about the sentence having to do with apprentices being employed in accordance with the ratio provided in the contract until we had been able to determine the whole apprentice provision. That wasn't something serious; it was just a reference that we made on the matter.

We did object and point out that we thought it was illegal under parenthetical reference 2, which has to do with the definition of "journeymen", to bring in this provision about journeymen members of the union, and it was on that note that we discussed at some length the fact that under the Taft-Hartley Act we had to be more than careful and more than cautious in anything which smacked, even, of preferential hiring.

Furthermore, under point No. 3, in the same grouping, we raised a question about the examining board of the School for Printers' aprentices, as provided in Section 94 of the commercial agreement. I can go into great length on that or I can merely say that we raised a definite objection on that score, which objection found itself reoccuring, and coming up again and again and again in the collective bargaining that followed in the meetings subsequent to this meeting I am now discussing.

Q. What was the basis of the objection stated?

[3729] A. It was stated then and it was stated later; it was stated to the full committee by Mr. Lane on a number of occasions, and it was considered carefully by a subcom-

mittee, the appointment of which you will hear about later.

Q. What was said about the basis of the objection?

A. Our fundamental objection was to committing ourselves on everything which might result in an opportunity being given to a union man to veto an opportunity for a non-union man to have employment. I think I have to read this point No. 3, which has to do with the jurisdiction of a journeyman. It is stated under point 3:

> "Applicants for work in a composing room who, upon reference to the school by a member of the League, secures a certificate of competency duly issued under procedures established by an examining board at the School for Printers' Apprentices as provided * * *" etc, etc.

Now, when you study the developments that came, you will find that in the agreement eventually reached unanimously by the Joint Scale Committee—

Mr. Van Arkel: I move that be stricken, Mr. Examiner.

Trial Examiner Leff: Yes, I will strike everything beginning with the words "when you study the developments".

Q. (By Mr. Sinsheimer) What did you say to the local union with respect to your objection to this paragraph or clause 3?

[3730-3731] A. We said we thought it was dangerous to put in a contract a commitment to have the competency of a man adjudged by an examining board which might or might not be partial and be influenced by the union membership of the members of the board.

Shall I continue?

Q. Yes; continue, please.

A. In the agreement finally reached we—

Mr. Van Arkel: (Interposing) Objection. Move it be stricken.

Trial Examiner Leff: Mr. Sinsheimer wants you to limit your answer to what was said at the meeting.

The Witness: I am trying, Mr. Examiner, to answer his question, and I am trying to show him what it was that we objected to under the heading of the Examining Board and the School for Printers' Apprentices.

Trial Examiner Leff: Did you express your objection at the meeting?

The Witness: We did time and again.

Trial Examiner Leff: What did you say concerning your objection?

The Witness: We said, "We don't want to commit ourselves to competency being adjudged by the examiners down at the school in question." It may well be that the school is completely on the up and up; we do not know. We have tried [3732] to find out. We have been unsuccessful. Consequently we think it would be safer and, certainly, more clearly within the law, if we established the test of competency as administered by impartial and qualified and trained examiners named by the superintendent of Public Instruction of the City of New York.

Does that answer the question?

* * *

[3733] * * * Q. (By Mr. Sinsheimer) You stated that you objected to the inclusion of the operators of the phototypesetting machines. Did you state why?

A. Yes. We said that it well might be that we would be in a jurisdictional controversy on that matter. As we understand it, we have no right to cede the bargaining rights of a group of a known or unknown future employee.

Q. Do the New York papers presently have operators for phototypesetting machines?

A. No.

Q. Do any of them?

A. Not to my knowledge.

Q. Referring further to Board's Exhibit 95, did you raise [3734] any other objections which were stated to the union in these meetings?

A. Yes, we did.

Q. What were they?

A. With respect to the proposal on employment our general comment was that as we understood the language of this proposal it eliminated the front office, or the management from decisions which might necessarily be required from the front office with respect to the operation of a composing room.

We also indulged in some protracted discussion at that time and at subsequent times with respect to the oath of membership taken by those of the International Typographical Union and we questioned whether the oath in itself and the living up to that oath might not cause us to be on dangerous, if not illegal, grounds, if we were to accept the language precisely as suggested in the employing printers' formula.

I would say that Mr. Lane's comment at that time was one of caution and prudence, and I would say that in many occasions on that day and on subsequent days Mr. Lane did advance objections to matters which were made cause of caution and of prudence.

Shall I continue?

Q. Yes, please.

A. The so-called Section 72 was one to which we objected strenuously in part. I am going to read the first sentence, [3735] or part of it. It is as follows:

> "In the event of the introduction of any process, machinery or equipment effecting composing room work as herein defined, not in use in League plants at the date this contract is effective, or any such process, machinery or equipment used as an evolution of or substitute for current processes, machinery or equipment, all questions concerned with the method of operation • • •" etc.

We pointed out in addition to the typographical error in the word "effecting", that the reference "not in use at the date of this contract" bore only on the introduction of any process, machinery or equipment affecting composing room work. We held that danger might follow if that also did not bear on any such process, machinery or equipment used as an evolution of or substitute for current processes, machinery, etc. That was not too grave a criticism.

We definitely pointed out that we wittingly could not be party to broadening out a jurisdictional coverage provision to the extent broadened in this commercial printers' agreement. But, more than that, we drove home the utter lack of acceptability of this Section 72 because of the rigged arbitration setup later on in the provision.

Mr. Van Arkel: I move that the word "rigged" be stricken.

Trial Examiner Leff: What is the—

The Witness: (Interposing) May I say, Mr. Examiner, [3736] I was quoting directly from what we said to the union and if that makes any difference—

Trial Examiner Leff: Your answer indicates that the arbitration procedure set up was unacceptable to you and that you so advised the union. What did you find wrong with this offer?

The Witness: We found wrong with it as follows:

Your start along to read it and it seems to say if a question comes up or if there is any dispute on the matter, you take it to arbitration. But as you read along, you see it says once you take it to arbitration, the arbitrator has to rule within certain restrictions imposed upon him, and it is stated, "It is mutually agreed that in submitting this question to a fifth man, he shall be governed by the agreement of the parties that none but journeymen, as defined in the contract, shall be permitted to work on any such processes."

Trial Examiner Leff: Your objection goes back to the jurisdiction.

The Witness: It does, indeed. And it goes back to the definition of a journeyman and it goes back to the fact—I don't know whether—maybe there will be an objection to this, but I have to try to tell you what our philosophy was in disagreeing with some of these proposals.

We recognized the commercial printing formula as worked [3737] out in New York City between the Employing Printers Association and Mr. Randolph as a connivant to perpetuate closed shops conditions, struck work conditions, and jurisdictional boundaries of the union. We so recognized because of the advice given to us by our attorneys and, because of that, and because the definition of "journeymen" ties in with competency, jurisdiction, hiring, this whole thing conspires to defeat the aspiration we had and continue to have; namely, that we will have a contract that we can lay out on the table for you or anyone else to inspect.

Mr. Van Arkel: I move it be stricken, Mr. Examiner.

Trial Examiner Leff: The witness has quite correctly anticipated the objection. The motion to strike is granted.

Mr. Sinsheimer: Let us find out what is stricken.

Trial Examiner Leff: From the point where he said "this may be objectionable."

Mr. Sinsheimer: All right.

Trial Examiner Leff: We are interested in knowing what was said at the conference. Mr. Sinsheimer will probably ask you that question.

The Witness: Mr. Examiner, may I say to you that what you have just stricken is the best memory I have of precisely what we said to the union across the table.

Q. (By Mr. Sinsheimer) Was that said at the meeting?

A. To the best of my knowledge I said it.

[3738] Mr. Sinsheimer: Since that is what was said, and the witness so testified, I am going to move that that testimony be permitted to stand.

Trial Examiner Leff: As showing what he said at the meeting. Motion granted.

You should have made it clear in the beginning.

The Witness: I thought I made it clear before the recess I am trying to testify as to what happened and not as to my theories or my desires or my eagerness or anything else. I am trying to give you what actually happened.

Trial Examiner Leff: I appreciate that.

Q. (By Mr. Sinsheimer) Was anything else said about this Section 72 at these meetings?

A. I would say Mr. Lane said even more effectively and more poignantly to the union time and time again substantially what I testified that I said at least once and maybe twice.

Q. Continuing with this Board's Exhibit 95, did you raise any other objection expressed at the meeting?

A. Yes.

Q. Will you state what they were?

A. We pointed out that the union proposal on local union and chapel rules was certainly a unilateral thing. Mr. Lane pointed out to the union that whereas there might not be anything wrong with saying that either party may make rules for its own government or the government of its own members, [3739] that there might well be a false interpretation if this should just refer to one party and appeared to grant something to one party; specifically, he said he was not at all certain what might come up under rules made by the local union or by a chapel of the local union and then he suggested a bilateral reference; namely, nothing in this contract shall permit either party for establishing rules not in conflict with the contract or not in conflict with law, or public law, for the government, or regulation of its own members. There was considerable resistance on it.

I may say to you that I talked to my office in New York this morning—

Mr. Van Arkel: I don't think that—

The Witness: This is on this point.

Trial Examiner Leff: It probably will be objected to. I think the objection would probably be sustained.

Q. (By Mr. Sinsheimer) What was said at these meetings

A. It was pointed out by Mr. Lane at the meetings when this was discussed that such a bilateral reference would merely be reinclusion in the contract of a provision which had been in the contract for many, many years, and under many, many collective bargaining agreements.

Trial Examiner Leff: What is that provision to which you refer—a provision permitting either party to post rules, the union to post rules, governing the operation of its organiz- [3740] ation?

A. It was not posting of rules. I do not have the precise language. I know that it is in this room, but I do not have it. But it was to the effect that, "Nothing in this section shall prevent either party from establishing its own rules and regulations not in conflict with law", or something of that nature, for the government of its own members and regulation of its own members.

Mr. Van Arkel: I am not clear; if I may interject.

Was that the language of the proposal that you submitted or the language of the previous agreements?

Trial Examiner Leff: The witness said that previous agreements had language to that effect.

The Witness: Mr. Lane said to the union, "What is the matter with picking up what we had in the contract for so many years?"

Q. (By Mr. Sinsheimer) Was there any further discussion with respect to that provision, that is the one headed "Local Union and Chapel Rules"?

A. Yes, there was.

Q. What else was said?

A. Pretty much a reiteration of what I have said.

Q. Did you raise objections to any other provisions in Board's Exhibit 95?

A. We did.

[3741] Q. State what those were?

A. We raised a specific objection to the I.T.U. laws clause.

Q. What did you say about that?

A. We said that the clause as proposed by the union and as accepted in the commercial formula would be totally

unacceptable to us unless we made clear the intent of the parties somewhere else in the contract with respect to jurisdiction.

Now, the proposal of the union was that the General Laws of the International Typographical Union in effect January 1, 1948, not in conflict with law, or this contract, shall govern relations between the parties on conditions not specifically enumerated herein.

Mr. Lane pointed out to the union representation more than once, and we discussed it at great length in the subcommittee meetings that were we to agree to this language as proposed by the union and were we not to specify something definitely under the jurisdictional provision, then we would be automatically granting to the union jurisdiction over Varitypers. The words used were "in the open".

Granting of a claim of jurisdiction over Varitypers by the union, or granting of jurisdiction over existing Varitypers might be held to be within the law. Certainly, if held within the law, then the only other question would be: Would it be in violation of the contract? If not in violation of the contract, then this provision on I.T.U. law [3742] might prevail and varitypers automatically would go to the union.

Trial Examiner Leff: Do you have any varitypers employed in New York?

The Witness: Employed?

Trial Examiner Leff: Newspaper composing rooms.

The Witness: Yes.

Trial Examiner Leff: At this time?

The Witness: Not in composing rooms; no, sir. They are not composing-room machinery.

Trial Examiner Leff: What in this proposal would give jurisdiction over those not doing composing-room work?

The Witness: This says that the I.T.U. laws govern the relationship between the parties on conditions not specifically enumerated herein. Now, if a matter is not enumerated in the contract but it is enumerated in I.T.U. law, then we understand that if we were to agree to this, we automatically would accept the claim or grant the claim of the union under the I.T.U. law.

Now, if you could provide me with a copy of the I.T.U. law, or let me provide myself, I could expatiate on that a little bit more by saying to you that under the General Laws

of the Typographical Union for the first time this year—I can't find it, but I can paraphrase it to say—up to this year, the I.T.U claimed jurisdiction over varitypers [3743] for use in offset printing. At the Cleveland convention last summer the I.T.U. law was changed to claim jurisdiction over Varitypers—period. Consequently, your point about Varitypers used in composing room work seems to me, and an equivalent point seemed to us, to be somewhat academic, and we felt that were we to embrace these I.T.U. laws without tightening up the jurisdictional provision, we automatically would be at least in a squabble with reference to Varitypers.

Trial Examiner Leff: What was the answer of the union representatives to that, if any?

The Witness: What do you mean by that?

Trial Examiner Leff: You stated you objected to the I.T.U. laws on certain grounds which you have expressed here today.

Did the union representatives have any comment to make on that?

A. Yes, they had varied comments. They said they were going to continue to press for it, and they did continue to press in a mild way until we got farther along in the bargaining and at a certain time in the bargaining the union joined us in tightening up the jurisdictional clause so it would be safe for us to accept something very much on the order of this.

Trial Examiner Leff: Did the union say that it was not claiming Varitypers not employed in composing rooms?

The Witness: I can say yes or no, but I will try to [3744] tell you some of the things that were discussed, and then maybe that will establish a yes-or-no answer.

Mr. Lane pointed out to the union that we in no way could cede jurisdiction of Varitypers and for two reasons: (1) Jurisdiction over Varitypers already is in the realm of collective bargaining agreement in New York City between the New York City newspaper signatory to this contract, and another union not covered by the I.T.U.

That is one thing. That automatically would cause a jurisdictional controversy.

The second point was that as we have been advised on the law, we cannot cede the bargaining rights for people presently employed and certainly we could not cede the

bargaining rights for an unknown number of persons who later might be employed.

Now, I think that is about as well as I can answer your question. I cannot remember everything every body said. We don't mean Varitypers except in the composing rooms.

Trial Examiner Leff: Did you suggest any modification on Varitypers in the I.T.U. laws clause which would enable the union to meet your objection, or to have the agreement cover your objection?

The Witness: On Varitypers?

Trial Examiner Leff: Yes.

The Witness: We suggested modification of the jurisdictional [3745] clause which brought the same thing.

Trial Examiner Leff: Did the union accept that modification?

The Witness: Yes.

Trial Examiner Leff. So that disposed of your entire objection to the I.T.U. law?

The Witness: It disposed of any possibility insofar as the question of the union claiming jurisdiction of varitypers under the acceptance or embracement of I.T.U. laws.

Q. (By Mr. Sinsheimer) What was the change which you proposed which the local union committee agreed to?

Mr. Van Arkel: I object to the question as conclusionary.

Trial Examiner Leff: What was the change?

Mr. Van Arkel: They agreed to that, Mr. Examiner. It seems to me Mr. Sinsheimer keeps returning to this matter. It seems to me we ought to find out what happened.

Trial Examiner Leff: What was the change you had in mind?

The Witness: The change that we had in mind?

Trial Examiner Leff: That you suggested.

The Witness: Let me look here a minute.

We said, "We are perfectly willing to continue whatever jurisdiction you have had and we have recognized in the past. But we are not willing in any way to broaden that jurisdiction. Therefore, as we jointly work out some language [3746] which accomplishes that, one, it will wash out your claim for Varitypers but, two, it will show no desire on our part to restrict your jurisdiction."

In answering your question further, do you wish me to give you the language which was agreed upon?

Q. (By Mr. Sinsheimer) Will you state the language which you proposed to the local union committee? We will subsequently develop whether or not it was agreed upon.

Mr. Van Arkel: I ask that the statement in the second part of the question be stricken, Mr. Examiner.

Mr. Sinsheimer: No objection.

Trial Examiner Leff: There is a statement in it.

Mr. Sinsheimer: I will withdraw the statement in the question and leave the question.

Trial Examiner Leff: There was a statement.

Mr. Sinsheimer: That is right.

The Witness: We phrased it this way at one time in our proposal of March 26. Under the mutual commitment and intent, we said, "Jointly, the parties recognize, therefore, that the matter of union jurisdiction, the question of handling struck work, certain phases of union security, and the manpower needs and production requirements of the publishers called for a large degree of confidence and good faith if present operations are to be carried out without violation of the law or of this mutual commitment."

[3747] We went on to say that we had no desire to narrow the jurisdiction and we had no disposition to widen it to include Varitypers, or the bargaining rights for people who might thus be drawn into coverage of the contract.

I failed to find—it may be it is just my memory slips me—but I fail to find any place where we spelled out a definite jurisdictional proposal, Mr. Sinsheimer.

Q. (By Mr. Sinsheimer) Do you recall whether or not you ultimately proposed that the General Laws of the International Union not in conflict with the contract or with federal or state law shall govern relations between the parties on conditions not specifically enumerated herein?

A. Yes. That is right. I thought you asked me to cite any proposal we had made in exact language on jurisdiction, and I am reminded that I think we never did write one out, but that in the collective bargaining across the table, jointly with the union, we wrote one out and later on it was accepted. That frequently happens.

Q. How did you determine or how did you finally cover the jurisdictional question—with one clause, two clauses, or what?

A. We covered it with one clause in three paragraphs.

It was accepted and written into the minutes of the 16th negotiating session on April 5, 1948.

* * *

[3748] * * * (By Mr. Sinsheimer) You proposed a laws clause to the local union representatives? What did they say on April 5?

A. We did not propose a laws clause to the union representatives. That is the point that is bothering me.

Q. Who did you propose it to?

A. The union made a proposal to us. We had many objections. We made a proposal to the union. The union had many objections. Then we bargained—give and take—and we would sit down and somebody would draft something and say, "What do you [3749] think about this?" "Don't you like this." "Well, you try your hand at it."

And back and forth it would go, until in that sort of collective bargaining there came a laws clause and a jurisdictional clause which were acceptable to both parties to the end that they wrote them in the minutes of the sixteenth meeting. But it would be inaccurate to say that we proposed a laws clause to them and they accepted it.

Q. Referring you, Mr. Mapel, to Article 7 of Section 1 of the General laws of the I.T.U. Is that the clause that you referred to before?

A. Yes, that is the one. If you had—that is the answer. That is the one.

Trial Examiner Leff: Was the clause changed at the Cleveland convention?

Mr. Sinsheimer: Yes, that was changed. If you will compare it with the previous year you will notice the word "offset" is omitted in the current clause and was present in the clause of 1947. At the end of the Section 1 of Article 7 it says, "which is actually used in offset printing." In the language of the 1947 laws; the word "offset" is omitted in the 1948 Book of Laws.

Q. (By Mr. Sinsheimer) Can you state what is covered by offset printing as distinguished from printing, Mr. Mapel?

A. I think I can say to you that the normal production [3750] of a newspaper is not achieved through offset printing.

Trial Examiner Leff: But where you use the Varitype process you use offset?

The Witness: No, sir.

Trial Examiner Leff: Isn't that an offset process?

The Witness. No, sir. If you wish me to explain—

Trial Examiner Leff: (Interposing) Yes.

The Witness: Varitypers place words on paper much as a typewriter does, and when Varitype work is used in a newspaper, the Varityped page is placed in front of an engraving camera and a picture is made and a photoengraving results and you print from the photoengraving.

Trial Examiner Leff: What is the offset process?

The Witness: Offset printing is a type of printing used primarily for color or fine, soft-tone reproduction such as brochures and other types of commercial printing. In web press printing, the plate impresses itself against the paper. In offset printing, the offset plate impresses itself against another plate which, in turn, presses against the paper. It is a difficult thing to explain to you.

Trial Examiner Leff: There is no photoengraving plate made in offset printing, is that correct?

The Witness: I am not an expert on it.

Trial Examiner Leff: The reason I as asking is because I assume you know more about it than I do.

[3751] The Witness: If you will ask me about the production of newspapers I will try to establish that I know what I am talking about. I am not an expert on offset printing, and other than an effort to give you a layman's answer, I better not go any deeper.

The product of the Varityper can be used in offset printing just as it can be used in web press printing or in letter press printing. You start out with a Varityped page. You can make an engraving from it and you can print directly from the engraving.

Trial Examiner Leff: If you were using a Varityping method in order to get out a newspaper you would make an engraving from it?

The Witness: Yes. It has nothing to do with offset printing. Consequently, if you want to ask a few more questions, I can explain this thing to you.

Trial Examiner Leff: I would rather let some of the experts ask the questions.

The Witness: I take it you are trying to examine me on the matter of the elimination of the word "offset" from the I.T.U. laws; is that it?

Trial Examiner Leff: I want to find out whether it really made a difference.

Q. (By Mr. Sinsheimer) Mr. Mapel, what previous experience have you had with the production or publication of newspapers [3752] prior to being a vice chairman or secretary of the Publishers' Association?

A. What practical newspaper experience have I had?

Q. Yes.

A. A dozen or so years ranging from the time when I was a boy in high school, I was a printer's devil and learned how to use that composing rule through the various stages in all of the mechanical departments of a small newspaper through virtually every job from cub reporter to editor-in-chief of a daily newspaper, plus being general manager of a daily newspaper.

I think that about covers it.

Q. In the normal course of the production of the newspapers is offset printing used?

A. No.

Q. Is it used at all in the production of newspapers?

A. Not in our plants.

Q. Not in any of the New York groups?

A. I would like to inquire. I do not call rotogravure printing as offset printing, but in the normal production of the newspapers that you get and I get and we read, unless it is something brought in from the outside, which was offset, there is no offset printing in newspaper plants.

Trial Examiner Leff: You say there are some Varitypers employed in some of the New York newspaper shops?

[3753] The Witness: That is right.

Trial Examiner Leff: What do they do?

The Witness: Talking about the instrument or the operator?

Trial Examiner Leff: What do they use them for?

The Witness: They might be used for promotional work in the advertising department, or the circulation department, or for composing certain types of office forms which appropriately would be written in the typewritten face.

Trial Examiner Leff: The product of their work does not find itself into the newspaper itself, does it?

The Witness: It normally does not. The product of

the work of Varitypers, as you must know from this case, has found itself into—

Trial Examiner Leff: Chicago newspapers?

The Witness: Certainly, and in other places.

Trial Examiner Leff: Under those circumstances the Varitypers would be considered performing composing room work?

The Witness: You may consider it. It would be a substitute process just as any other process leading up to photoengraving would be a substitute method. It is a different way of printing a newspaper and one which can be used when composing rooms are dark.

* * *

[3755] * * * Q. (By Mr. Sinsheimer) I believe you testified, Mr. Mapel, that one of the newspapers presently has a contract with another union covering varitypers?

A. Yes, the Herald-Tribune, with the Newspaper Guild, C.I.O.

Q. Do you know the number of varitypers at the Herald-Tribune?

A. I do not.

* * *

[3756] Q. (By Mr. Sinsheimer) Have you ever had any conversations with union representatives concerning the instructors?

A. Only in these negotiations.

Q. During the course of those negotiations did any of the union members say anything about the qualifications of an instructor?

A. Well, during the course of the negotiations they made it clear to us that the teachers or the examiners down there were members of the union.

Q. Was that stated to you by union representatives in the meetings?

A. It was stated, although maybe not in just those words, to us more than once in the negotiation meetings.

Q. By representatives of the union?

A. Yes.

[3757] Q. (By Mr. Sinsheimer) Now, referring again to Board's exhibit 95, did you have objection to any other provisions [3758] that you raised at these meetings?

A. Yes.

Q. Which provision?

A. We objected to the provision under the subheading, "Settlement of Disputes and Interpretation" having to do with "the refusal of any party to comply with the decision of the Joint Standing Committee, in which event all aid and support to the firm or employer, or member or members of the union refusing such acceptance and compliance would be withdrawn by both parties to the agreement and the contract then would become null and void as affecting such firm or employer, or member or members of the union."

Q. What did you have to say about that?

A. We said it was bad and we submitted a hypothetical situation in which an arbitration award might be handed down in favor of a given newspaper under the contract and in which case, then, all of the members of the composing room might join in disregarding, disrespecting or refusing to accept and comply with the award, in which event we pointed out it might be possible for the contract to be declared null and void and it would result in the suspension of the operations of that newspaper.

We said "all in all the whole thing is bad" and we said further and reiterated that this was something begotten of past trouble in the commercial printing field and something [3759] which had never colored our relationship because we always had respected and abided by arbitration decisions even though they were adverse.

Q. Was anything stated with respect to the clause under the words "Picket Line"?

A. Yes.

Q. What was said about that?

A. We pointed out that we had very practical objection to the clause in view of the fact that in our employ are not only members of Local No. 6 ITU but members of Local No. 6 Mailers-ITU and again we set up a situation wherein an agreement might be brought about with the composing room employes for a contract expiring on March 31st and thereafter a disagreement might result with the mail room employes under an agreement expiring on May 6th, in which event it would be possible for trouble to come to us and for action of the International Union to bring about what in effect would be a composing room stoppage hung on this section with reference to mailers.

Q. Was there any other discussion of that clause?

A. That was discussed at some length and in that vein, a number of times, both in the full committee meetings and in the sub-committee meetings.

Q. Now, following the meeting of March 26th, at which you made a proposal to the union, did you have a meeting on March 29th?

[3760]. A. We did.

Q. And did you make any statement or present any paper to the union at that time?

A. We did.

Mr. Sinsheimer: I ask the reporter to mark as Board's exhibit 97 for identification a paper dated March 29, 1948, entitled, "Declaration of Intent", consisting of one page.

(The document above referred to was thereupon marked Board's Exhibit No. 97 for identification.)

Q. (By Mr. Sinsheimer) Mr. Mapel, I show you what has been marked as Board's exhibit 98 for identification and ask you what that is?

A. That is just what you said, a Declaration of Intent, which was offered to the union at the meeting of March 29th and it was offered for inclusion in the minutes of the meeting but not for inclusion in the contract.

Q. That was the tenth meeting, on March 29th, is that right?

A. That is right.

Q. Now did you have a meeting on March 31st, which would be the twelfth meeting?

A. Let's see. You are jumping from the tenth to the twelfth?

Q. Yes.

A. We had a meeting on March 31st, the twelfth meeting.

[3761] Q. And at that meeting did you receive a letter and a proposal from the local union representatives?

A. We did.

Mr. Sinsheimer: I will ask the reporter to mark as Board's exhibit 98 what appears to be a copy of a letter dated March 31, 1948, addressed to Mr. William Mapel, signed "Laurence H. Victory"; and as Board's exhibit 99 for identification a document consisting of forty-one pages, which bears at the head, "Submitted at the twelfth

negotiating meeting March 31, 1948, contract between Publishers Association of New York City, acting on behalf of each of the papers named below, and Typographical Union No. 6." and with the last and forty-first page headed, "Appeal from Discharge".

Mr. Van Arkel: This is the union's proposal?

Mr. Sinsheimer: That is correct.

Mr. Van Arkel: What are you numbering it?

Mr. Sinsheimer: 99.

(The documents above referred to were thereupon marked Board's Exhibit No. 98 and 99 for identification.)

Q. (By Mr. Sinsheimer) I show you what has been marked as Board's exhibit 98 for identification, Mr. Mapel, and ask you what that is?

A. That is the letter I received from Mr. Victory under [3762] date of March 31st.

Q. And referring to Board's exhibit 99 for identification state what that is, please?

A. May I add to my answer the fact that I received this letter in the mail and at the meeting in question Mr. Victory read the letter into the minutes of the meeting.

In answer to your last question, it is the forty-one page proposal submitted by the union to the publishers at the twelfth negotiating meeting on March 31st.

Q. Now, was there any statement made in conjunction with that particular presenation, that is, in conjunction with the union's proposal?

A. Yes. The union voiced concern stemming from the Swygert injunction and announced that it understood word was coming along from Indianapolis as a result of a conference between union attorneys and government attorneys said that the proposal as prepared, which had been worked out with the help of second vice-president Brown, was to the best knowledge of the union completely within the law.

They had expressed some reluctance in offering it for fear there would be something that would come from Indianapolis which might cause them to wish to modify it, so they wrote into the minutes a statement which they felt covered themselves in the matter. They did this and said they would give the proposal to us at that time and in that way and [3763] with that reservation in order that

we could then get down to the job of bargaining which as they said, we had had over many, many years.

Mr. Sinsheimer: I will ask the reporter to mark as Board's exhibit 100 a paper consisting of two pages headed, "Twelfth meeting, March 31, 1948; minutes of the Joint Scale Committee", the second page of which is signed, "Respectfully Submitted, John J. Landey, Secretary".

(The document above referred to was thereupon marked Board's Exhibit No. 100 for identification.)

Q. (By Mr. Sinsheimer) I will show you Board's exhibit 100 and will you state what that is, Mr. Mapel?

A. That is the two page copy of the minutes of the twelfth meeting.

Q. And how were those minutes prepared?

A. These minutes were prepared by John J. Landey, a member of the union, who had been elected secretary of the Joint Scale Committee.

Q. Were those minutes subsequently read to a subsequent meeting and approved, or not?

A. Yes, those minutes were approved at a subsequent meeting.

Mr. Sinsheimer: I will offer Board's exhibits 97, 98, 99 and 100.

[3764] Mr. Van Arkel: I object for the reasons already noted.

Trial Examiner Leff: Objection overruled. Board exhibits 97, 98, 99 and 100 are admitted.

(The documents previously marked for identification Board's exhibits Nos. 97, 98, 99 and 100 were received in evidence.)

Q. (By Mr. Sinsheimer) Now, following that meeting you had a meeting on April 2nd, is that right?

A. That is right.

Q. Which was the thirteenth meeting. And at that meeting you had considerable discussion, is that correct?

A. That is right.

Q. Now, before referring you to that meeting I will ask you whether or not following the meeting on April 2nd you made an amended proposal to the union?

A. We did.

Q. And when was that made?

A. It was drawn up on April 2nd by us and presented to the Joint Scale Committee on April 3rd. Now, when you say an "amended proposal", I wish to point out that it was a proposal which filled in the subject matter of paragraph 5 referred to earlier today.

Mr. Sinsheimer: I will ask the reporter to mark as Board's exhibit 101 a document consisting of four pages. [3765] The first is headed, "Publishers' Amended Proposal to New York Typographical Union No. 6". The first three pages have the date "April 2, 1948" at the bottom and are headed with page numbers, that is, pages 2 and 3 are, but page 4 simply has on it the word "Section" and a paragraph.

(The document above referred to was thereupon marked Board's Exhibit No. 101 for identification.)

Q. (By Mr. Sinsheimer) Will you state what Board's exhibit 101 is, Mr. Mapel?

A. Board's exhibit 101 is a typed script of publishers' amended proposal to New York Typographical Union No. 6, which proposal was given orally to the negotiating committee for the union at the meeting of April 3rd. These proposed amendments which, as I said before, filled out paragraph 5 of the earlier proposal were dictated by Mr. Lane, who paused to comment on each as he dictated them. They were, as I said, prepared on April 2nd and between the time of their preparation and the time of their submission to the union we noted one omission and we made two changes. Consequently, rather than hand to the union something marked up with red pencil Mr. Lane read the subjects out to the union at least certain members of the union committee took down his proposals as he read them.

Q. And exhibit 101, then, is the proposal as read by Mr. [3766] Lane?

A. That is right, and commented on.

Mr. Sinsheimer: I offer Board's exhibit 101.

Mr. Van Arkel: The same objections.

Trial Examiner Leff: The same ruling. Exhibit 101 is admitted.

(The document previously marked for identification Board's Exhibit 101 was received in evidence.)

Q. (By Mr. Sinsheimer) Following the submission of Board's Exhibit 101 you had meetings on April 4th?

Trial Examiner Leff: I notice that one of the proposals has suggested the elimination of bogus. Is that the first time bogus was mentioned?

The Witness: You mean the first time in the negotiations?

Trial Examiner Leff: Yes.

The Witness: No.

Trial Examiner Leff: Please proceed.

Q. (By Mr. Sinsheimer) Following the meeting on April 3rd did you have meetings on April 4th?

A. We had a meeting of the sub-committee on the morning of Sunday, April 4th and a meeting of the full committee in the afternoon.

Q. And then a meeting after that on April 5th?

A. That is right, sub-committee in the morning and the full committee in the afternoon.

Q. And the meeting on the fifth was your sixteenth meeting?

A. That is right.

Mr. Sinsheimer: I will ask the reporter to mark as Board's exhibit 102 a document entitled, "Sixteenth meeting; Minutes of the Joint Scale Committee April 5, 1948", consisting of four pages, the last of which purports to be signed by John J. Landey, Secretary.

(The document above referred to was thereupon marked Board's Exhibit No. 102 for identification.)

Q. (By Mr. Sinsheimer) I will show you Board's exhibit 102 for identification. Will you state what that is, Mr. Mapel?

A. That is a copy of the minutes of the sixteenth meeting held on April 5, 1948.

Q. And by whom were these minutes prepared?

A. John J. Landey, Secretary.

Q. A member of the union scale committee?

A. A member of the union scale committee.

Q. Were these minutes subsequently read and approved by the entire committee?

A. Yes, sir.

Mr. Sinsheimer: I will offer Board's exhibit 102 in [3768] evidence.

Mr. Van Arkel: The same objection.

Trial Examiner Leff: Same ruling.

(The document previously marked for identification Board's Exhibit No. 102 was received in evidence.)

Q. (By Mr. Sinsheimer) Now, did you have a meeting on April 8th?

A. We did.

Mr. Sinsheimer: I will ask the reporter to mark as Board's exhibit 103 for identification a document consisting of three pages, headed, "Nineteenth Meeting, April 8, 1948", headed, "Minutes of the Joint Scale Committee", bearing signature "John J. Landey, Secretary".

(The document above referred to was thereupon marked Board's Exhibit No. 103 for identification.)

Q. (By Mr. Sinsheimer) I will ask you to state what Board's Exhibit 103 is, Mr. Mapel?

A. It is the minutes of the nineteenth meeting of April 8, 1948, consisting of two and a half pages, signed by John J. Landey, Secretary.

Q. And those were prepared by whom?

A. Mr. Landey.

Q. Were those subsequently read to the meeting of the Joint Scale Committee?

A. They were and approved.

[3769] Mr. Sinsheimer: I will offer Board's exhibit 103.

Mr. Van Arkel: The same objection.

Trial Examiner Leff: Same ruling. Exhibit 103 is admitted.

(The document previously marked for identification Board's Exhibit No. 103 was received in evidence.)

Mr. Sinsheimer: I will ask the reporter to mark as Board's exhibit 104 for identification a document headed, "Twenty-second meeting, April 13, 1948", entitled, "Minutes of the Joint Scale Committee", consisting of seventeen pages, the last of which is signed, "John J. Landey, Secretary"; and as Board's exhibit 105 a document entitled, "Twenty-third meeting, April 14, 1948", entitled, "Minutes of the Joint Scale Committee", consisting of three pages, the last of which has a clause and then the signature of a considerable number of persons for the publishers and also for the union.

(The documents above referred to were thereupon marked Board's Exhibits Nos. 104 and 105 for identification.)

Q. (By Mr. Sinsheimer) I will refer you to Board's

exhibit 104 for identification, Mr. Mapel, and ask you to state what that is?

A. That is the minutes of the twenty-second meeting on April 13th.

[3770] Q. And by whom were they prepared?

A. Mr. Landey.

Q. Were those minutes read to a meeting of the Joint Scale Committee?

A. They were.

Q. Were they approved?

A. They were.

Q. They were approved?

A. They were.

Q. I will show you Board's exhibits 105 for identification and ask you to state what that is?

A. That is the minutes of the twenty-third meeting on April 14, 1948.

Q. And by whom were they prepared?

A. They were prepared by John J. Landey, Secretary.

Q. Were those minutes approved or read to a meeting of the scale committee?

A. These were the minutes of the last meeting and the scale committee sat at rest long enough for these minutes to be stenciled and then they were read, approved and signed by all the members of the committee that night, it being what was thought to be the last meeting of the Joint Scale Committee.

Q. Was an original then of Board's exhibit 105 signed by the persons whose names appear on the third page?

[3771] A. It was.

Q. Can you state who these people are who signed that?

A. Yes.

Q. Will you do so, please?

A. For the union Laurence H. Victory—do you wish me to identify these people?

Q. Yes, please.

A. Laurence H. Victory, president of Local No. 6; Harry M. Masse, the elected chairman of the union scale committee; James C. Mooney, the secretary-treasurer of Local No. 6; Daniel J. Newman, the vice-president of Local No. 6; John J. Landey, the secretary of the Joint Scale Committee; Walter H. Peters, a member of the Scale Committee; John J. McGann, a member of the Scale Com-

mittee; William E. Shannon, a member of the Scale Committee; and William Ward, the business representative of the union.

For the publishers—

Trial Examiner Leff: Do you want that?

Mr. Sinsheimer: Yes, I think we should have it.

Mr. Van Arkel: It appears right on the exhibit. I don't know why this has to be read into the record.

Mr. Sinsheimer: I think it should appear as to who were present for the publishers.

The Witness: J. F. Cullen,—shall I identify these gentlemen?

[3772] Mr. Sinsheimer: Yes, please.

A. Business Manager of the New York Mirror and chairman of the Publishers Association of New York City; Theodore Newhouse,—I am not certain as to his title. We will call him the publisher of the Long Island Press and Star Journal; I am not certain as to what his precise title is.

Andrew Fisher, assistant to Mr. Lane of the New York Times.

Alfred H. Savage, an administrative agent at the News.

Edwin T. Burke, assistant to the business manager of the World Telegram.

Edmund Goodrich, business manager for production of the Post and also of the Home News.

James D. Garvey, assistant business manager of the Journal-American.

C. C. Lane of the New York Times, who was chairman of the Joint Scale Committee.

P. B. Stephens, business manager of the New York News.

John E. Martin, production manager of the New York Sun.

Thornton Hall, assistant business manager of the Herald-Tribune.

Trial Examiner Leff: I think we know who William Mapel is.

Mr. Sinsheimer: I will ask the reporter to mark as Board's Exhibit 106 a document entitled, "Contract between [3773] Publishers Association of New York City acting on behalf of each of the publishers named below and Typographical Union No. 6"; consisting of fourteen pages. There appear to be some separate pages.

(The document above referred to was marked Board's Exhibit No. 106 for identification.)

Mr. Sinsheimer: I suggest that you direct the reporter to mark these pages 1 through 14 so that we can refer to them.

Trial Examiner Leff: Are you going to make frequent reference to them?

Mr. Sinsheimer: I don't know but there may be some confusion the way these pages are all set up in the event there is reference to them.

Trial Examiner Leff: Very well. Suppose you mark the original, that is, the one that is being received and every one can mark his own copy.

Mr. Sinsheimer: I have marked the original as they presently appear from pages 1 to 14 in the right hand bottom corner.

Q. (By Mr. Sinsheimer) I show you what has been marked Board's exhibit 106. Will you state what that is, Mr. Mapel?

A. That is a series of pages embodying contract provisions which were handed to the publishers' committee by the union committee at a meeting on April 21, 1948 with the comment [3774] from the union committee that these were the changes which Mr. Randolph had directed the union committee to include in a new contract.

Reference was made to the fact that these pages were compiled as the result of a letter received by the union officials and various and sundry other individuals on April 20th from Mr. Randolph mandating certain additions to the proposed agreement which the union told us, the union officials and many of the union committeemen told us Mr. Randolph forbade the local union to vote upon on Sunday April 18th.

Mr. Sinsheimer: I will offer Board's exhibits 104, 105 and 106.

Mr. Van Arkel: The same objection.

Trial Examiner Leff: The same ruling. The exhibits are admitted.

(The documents previously marked for identification Board's Exhibits Nos. 104, 105 and 106 were received in evidence.)

• • •

[3779] • • • Q. (By Mr. Sinsheimer) Following the meeting on March 29th you had a meeting on March 30th, is that right?

A. That is right.

Q. What occurred at that time?

Trial Examiner Leff: Are you going backwards now?

Mr. Sinsheimer: Well, I put the exhibits in for the purpose of getting them in so that we could go over this material and I understood and notice the Examiner was interested in one proposition which I did intend to develop.

A. The union came in and the union spokesman apologized for being late, said they had been up all night working on a proposal to give to us. He said their proposal and their all night work there was occasioned by the word they had had and the understandings they had with respect to the injunction handed down by Mr. Justice Swygert.

He referred to the fact that the contract was about to run out, expressed gratification that the union now seemed to be in a position where it could bargain on its own.

Mr. Van Arkel: Who is this speaking?

The Witness: The union spokesman.

Trial Examiner Leff: What is his name?

The Witness: Mr. Victory, the president of the union.

I think I said, and if I did not I meant to refer to the fact that Mr. Brown, the second vice-president, was referred to at the time and Mr. Victory said, "We are going to give you a full proposal, we are now going to get down and make a firm contract with you; we are going to give you a full proposal so that we can move fast."

He said, "We have here fourteen pages which constitute [3781] the gist of the important matter." He said, "They are working on the rest down at union headquarters and we would like to give you the first fourteen pages now and give you the rest at the next meeting."

The publishers inquired as to his statement about the gist of the matter being in the first fourteen pages, inquired if the gist contained enough to make it a full contract proposal? He said, "No", but the rest would come along. And the publishers said they felt they would rathe

wait until he had it here and have it then as a full proposal which could be considered in the light thereof and with the relationship of one section to another.

Q. (By Mr. Sinsheimer) Now, the following day you had a meeting, the twelfth meeting with the union?

A. Yes.

Q. And at that meeting the union gave you a letter and this forty-one page proposal?

A. That is right.

Q. And on April 2nd you had the thirteenth meeting, at which you had considerable discussion, is that correct?

A. That is right.

Q. Now, will you state what was discussed and what was said on April the 2nd?

A. Yes. The publishers, having had time to look over the forty-one page union proposal, expressed amazement at it in [3782] so far as some of its provisions were concerned, recalled the fact that the union had made reference to being freed of shackles and able now to negotiate in light of Judge Swygert's injunction and Mr. Lane pointed out that there was a publishers' proposal on the table; here came the union proposal of forty-one pages; the contract had matured; and if we followed the union's suggestion at the previous meeting that now we get down to the old fashioned type of bargaining we would be running for a month or two before we could exhaust discussion on forty-one pages of union propositions plus that given by the publishers.

He pointed out that the publishers were strong in their feeling about retroaction, that the publishers were eager and determined to bargain fully with the union but it would be in the position of the publishers that, as the union knew, whatever delay had been occasioned up until the issuance of the injunction was no fault of the publishers and perhaps the union would like to think the matter over and make some suggestions.

So the union took a caucus and after the caucus Mr. Victory said Mr. Lane's remarks made sense, they were mindful of the time factor, they were glad that now they could bargain on the things that bothered them and interested them, rather than the things that had been placed,—and I am not quoting directly, but the gist of the thing was the [3783] stumbling blocks that had been in our path-

way up until the time of the injunction; and again, to try to paraphrase it and get to the gist of it, he said, "All right, now we have an opportunity to talk about money, that is what we are interested in and let us get to the economic factors of this contract and suppose we appoint a sub-committee of two persons from the union and two persons from the publishers to attack matters of a legal nature", and meanwhile they would push their proposal and he said they had taken the salient features of it, they would like to bargain with us on them and he said, "Let a sub-committee take care of all this legal stuff, we are now free to go back to where we always have been and let us bargain on that and get a hurried-up contract."

* * * * * *

Q. (By Mr. Sinsheimer) Now, at that April 2nd meeting you and the union agreed to discuss certain of the sections of the existing contract, did you not?

A. The union proposed to us that it take the forty-one page document and go over it and take from it the salient points on which it wished to bargain, we could do the same [3784] with ours, and had a caucus for the purpose of so doing.

Q. All right. When they came back from the caucus what did the union have to say?

A. Well, Mr. Victory reiterated the desire of the union to try to consummate this thing promptly and said that they felt that there were eighteen sections of the present contract which would need some treatment, some to a greater degree than others, some hardly at all and he said then there were six other matters that they felt obligated to keep on the bargaining table. And Mr. Lane said, "Well, you have cut a forty-page proposal down to twenty-four proposed sections. That still is a mighty big package, including the things we wish to discuss." And Victory said, "Let's get at it, let's get somewhere; we are free now."

So Mr. Lane said, "Very well. Then you had better take these sections and tell us just what they are and explain the degree of emphasis that you feel needs to be attached to each. Whereupon Mr. Victory then went through all of the eighteen sections of the existing contract, plus his six other proposals which Mr. Lane had characterized as added starters.

Q. Now, do you have a copy of the existing contract?

A. Well, I do in my bag.

Trial Examiner Leff: We have it in evidence, don't we?

Mr. Hanson: Are you sure that is in, Mr. Examiner?

[3785] Trial Examiner Leff: We have Board exhibit 92, which should reflect the old contract.

Q. (By Mr. Sinsheimer) Does Board exhibit 92 reflect the existing contract?

Mr. Hanson: No.

The Witness: I couldn't say "yes" because yesterday it was established in the examination that the union had made an error in the second column of that exhibit and I have not read the first column at all, so I can't say "yes".

Q. (By Mr. Sinsheimer) While we are looking for a copy of the existing contract will you state what sections of the existing contract were to be discussed?

A. Mr. Victory's suggestion?

Q. Yes.

A. Yes. Sections 2, 3, 4—

Mr. Van Arkel: What are you reading from?

The Witness: I am reading from page 3 of this thing.

Mr. Van Arkel: Oh, I see.

The Witness: 2, 3, 4, 8, 15, 18, 21, 22, 23, 26, 28, 30, 35, 46, 47, 48, 84 and 85.

Q. (By Mr. Sinsheimer) And what were the six other matters that were characterized as added starters?

A. One was jurisdiction; two, the joint supervisory commission; 3, priority; 4, limitation on liability; 5, picket lines; and, 6, local union and chapel rules.

[3786] Mr. Sinsheimer: I will ask the reporter to mark as Board's exhibit 107 a booklet entitled, "Scale of Prices Newspaper Branch, New York Typographical Union No. 6, April 1, 1947 to March 31, 1948."

(The document above referred to was thereupon marked Board's Exhibit No. 107 for identification.)

Q. (By Mr. Sinsheimer) Will you state what that is?

A. Yes. That is a copy of the contract which matured on March 31, 1948.

Q. Between the Publishers Association and the local union?

A. That is right.

Q. That is Local No. 6?

A. The agency contract between the Publishers Association and Local No. 6.

Q. Who were signatories to that contract, just the Association, or all of the newspapers?

A. No. This contract, as is the case with most of our contracts, was signed by an officer of the Association and by a representative of each of the papers for whom the Association was agent.

Q. Now, following that meeting and the discussion of these sections you then had your meeting on April 3rd at which the publishers presented Board's exhibit 101, is that right?

[3787] A. I don't know about the number but that is when we filled out our proposals, so to speak.

Q. And it was at that time that you proposed that the bogus clause be eliminated?

A. It was in making this amended proposal that we proposed the complete elimination of bogus.

Trial Examiner Leff: Was that the first time you proposed the elimination of bogus?

The Witness: That was the first time we had proposed it officially, although we had discussed it on a number of occasions.

Q. (By Mr. Sinsheimer) Had you ever discussed the subject of bogus in previous years in negotiations?

A. In every negotiation in my memory it has been discussed at great length.

Q. Have you ever asked before this to eliminate the bogus clause completely?

A. I think I can say without exception we always have asked for its elimination.

Q. That is, in every—

A. In every contract negotation within my memory.

Q. And how far back does that go?

A. It goes back—the first one after I came with the Association was in the early part of 1942.

Q. What, specifically, occurred with respect to bogus? [3788] What was the discussion between you and the union?

A. We said we wanted to eliminate it. We were not sure but we thought it was violative of the Taft-Hartley Act. We said it definitely was feather-bedding. Mr. Lane quoted a former president of the International Typographical Union as commenting on bogus in not complimentary terms and either quoting him or some other member of the union, said "It is a practice as repugnant to those who perform it as those who have to have it performed."

The union said, "We don't know about the illegality. If it is illegal it has to go out. If it is not illegal, leave it in." We said, "No, we want it out, it is a bad thing". That general tenor of conversation on bogus persisted until we finally reached a meeting of the minds on the bogus clause.

Q. And that is reflected—

A. Reflected in the agreed upon document which was to be presented by the two scale committees to their respective parties for ratification.

Trial Examiner Leff: You have told us about your position on the bogus issue. Will you please tell us what the union stated its position to be?

The Witness: I thought I had said that we had said that we were persuaded that it was feather-bedding and, well, might be held to be unlawful. The union's position was, [3789] "Well, if it is illegal, it will have to go out. If it is not illegal, let us leave it in."

• • •

Trial Examiner Leff: Did the union say anything that you might have construed as a threat in connection with the [3790] bogus?

The Witness: As a threat?

Trial Examiner Leff: Yes.

The Witness: Well, I couldn't say that the union threatened us with respect to bogus. I can say the union was pretty adamant in keeping it in the contract. I can say that the union representatives, more than one of them said in the open scale committee meetings and two of them said in the sub-committee meetings something along this line:

"Well, leave this. Well, forget about that. You know we never could take back to the local union a proposal which called for the elimination of bogus."

They also said that their International law provided for bogus and reminded us that they were not in a position to ignore International law and take bogus out of the contract.

Q. (By Mr. Sinsheimer) Now, as a result of your discussions concerning bogus was there a change agreed upon between you and the scale committee with respect to the bogus clause?

A. There was.

Q. What was that change?

A. The bogus clauses, Section 39 and Section 40, provided that bogus must be reproduced within four working days. In the final proposal made to us by Mr. Victory for the local union committee late on the night of April 14th the union proposed to us that the period be extended from four working [3791] days to seven working days.

Q. Who made that proposal?

A. The union.

Q. And was that finally accepted by the publishers?

A. It was.

Q. Now, at the April 3rd meeting at which you had proposed the elimination of bogus when the proposal of the publishers was read to the local union, which is Board's exhibit 101, did the publishers comment on the provisions as they were read?

A. I testified that in giving them to the union orally Mr. Lane read each one slowly and then commented upon it.

Q. Now, at that meeting was it suggested by the union president that a sub-committee be appointed to address itself to certain sections?

A. No. I think that was at the meeting of April 2nd and now I look here and my memory is confirmed. It was at the meeting of April 2nd that the suggestion was made by Mr. Victory.

Q. That sub-committee addressed itself to certain sections of what agreement?

A. Well, his proposal was that the sub-committee take up all these so-called headaches and get them out of the way so that the full scale committee would have an opportunity to review a recommendation by the sub-committee and meanwhile [3792] the full scale committee would be spending its time negotiating on the matters which the local union considered and said it considered vital to its interests, namely, the matter of wages, and so forth.

Q. Now, what sections or what matters were to be referred to the sub-committee?

A. Well, at the April 3rd meeting the publishers agreed to the sub-committee after it was definitely established that the sub-committee in no way was negotiating any of these matters.

The sub-committee was to screen the suggestions that had been put on the table and make an effort themselves

to make a recommendation to the full scale committee and it was understood that the sub-committee had no power whatsoever except to report recommendations back and with that understanding a sub-committee of four was appointed and to this committee was relegated consideration of Sections 2, 4, 46, 47, 48, 84, 85, the subject of the appendix, which referred to the mutual guarantees proposed by the publishers and such editorial changes as would be made necessary in order to harmonize the contract with the provisions of the Taft-Hartley Act. By that I mean such changes as changing "member of the union" to "employe" and we called those all during the discussions editorial changes and recognized that they were of minor significance to both parties. That [3793] was mutually recognized.

Q. Now, when you refer to sections—

A. I didn't quite finish. I just have one other thing to say.

Q. All right, finish your answer.

A. And any other such matters as the sub-committee in its deliberation might feel that its recommendation might be helpful.

Q. Who were the members of the sub-committee?

A. Mr. Harry Masse, the chairman of the union scale committee, Mr. John McGann, a member of the union committee, Mr. P. B. Stephens, business manager of the New York News and myself.

Q. Now, when you refer to sections were those sections of the old contract?

A. That is right.

Q. That is Board's exhibit 107?

A. Yes.

Q. Board's exhibit 107 for identification, is that what you are referring to?

A. Yes.

Mr. Sinsheimer: I don't believe Board's exhibit 107 has been offered. I will now offer it.

Trial Examiner Leff: Any objections?

Mr. Van Arkel: No objections except the objections [3794] already made.

Trial Examiner Leff: Admitted.

(The document previously marked for identification Board's exhibit No. 107 was received in evidence.)

Q. (By Mr. Sinsheimer) And the appendix to the publishers' proposal you say was the mutual guarantees statement?

A. No. I said the appendix referred to the mutual guarantees. In the mutual guarantees we provided that any provision of the contract taken out solely because of the—suppose I just read that to you and then there won't be any confusion.

• • •

[3797] • • • The Witness: Now I can answer the question and to make it brief, the mutual guarantees as proposed by the publishers have been introduced here and if you read paragraph 1 and 2 of the mutual guarantees it will be very clear what the appendix is.

Q. (By Mr. Sinsheimer) Following that you had the sub-committee report on April 4. Is that right?

A. That is right.

Q. And the entire committee tentatively approved certain sections but referred two sections back to the subcommittee?

A. That is right. And held its official tentative approval of the other sections, waiving the whole.

Q. On April 5 you incorporated the subcommittee's recommendations on certain provisions in the minutes as tentatively [3798] adopted?

A. That is right.

• • •

Q. (By Mr. Sinsheimer) What occurred at the meeting on April 21st? That was your twenty-fourth meeting, was it not?

A. That is right.

Q. That is the one at which you received Exhibit 166?

A. That is right?

Q. Anything else occur at that meeting in addition to what you have previously testified to?

A. I testified to the fact that the union put these on the table with the explanation that I have given to you. [3799] The union said these were sections drawn as a result of the April 19 letter from the Executive Council. He said they were well aware of the fact we knew that it was about because it had already appeared in the papers. We said we did.

Then Mr. Lane said to the union committee, "Well, we

would like to know what this is all about. We don't understand some of this."

The union spokesman, Mr. Victory, said, "We don't know any more about it than you do and we don't understand it, either."

I said, "Will you please tell me what 'should' in the second paragraph or the first paragraph of page 6 means?"

Mr. Victory said, "I don't know."

I said, "It would seem to me that we are entitled to an answer on that and he said, "You certainly are."

It was on that note that the meeting adjourned.

Trial Examiner Leff: What is that word you referred to?

The Witness: "Should." The Executive Council, Mr. Randolph—

Trial Examiner Leff: Did he submit the Executive Council's letter to you?

The Witness: That letter had been published in our papers. I guess I didn't testify, Mr. Examiner, from what we later learned from Mr. Victory, copies of the Executive [3800] Council's letter were kicking around New York City for hours before Mr. Victory received it. As a result—

Mr. Van Arkel: (Interposing) I move that be stricken.

The Witness: I said Mr. Victory said that.

Mr. Van Arkel: Did he say it to you or when or where?

The Witness: He said it to as many of us as were in the room.

Mr. Van Arkel: I would like to find out when and where that was said and who was present.

There is no foundation.

The Witness: Then I refer you to the minutes of the meeting of the 21st of April, and it was at that time that Mr. Victory said, "I can understand that you know all about this." In substance, he said, "Some of your papers, some of our chapel chairmen and some of you people even had this letter before I got it."

Trial Examiner Leff: Let me get one thing clear. You testified that Lane said he did not understand it and Mr. Victory said neither did he. When you testified I thought you were referring to the proposals in Board's Exhibit 106. Is that what you are referring to or to the Executive Council's letter to the local?

The Witness: I would say I was referring to the proposals in light of the letter.

Trial Examiner Leff: What is it that Lane said he could [3801] not understand—the Executive Council's letter or the proposal submitted by the local to you?

The Witness: Mr. Lane didn't make that clear. I can't testify on it. I know I can tell you how I interpreted what he said.

Trial Examiner Leff: We don't care about that.

Q. (By Mr. Sinsheimer) Mr. Lane or Mr. Victory?

A. I said Mr. Lane. I think I testified that Mr. Lane said, "We don't understand this thing at all. What is this about?"

Mr. Victory said, "We don't understand any more about it than you do."

If you wish me to continue about the letter, the reason it was accepted, that we were familiar with this thing was that the letter had been published in at least one of our newspapers. It was common knowledge. It was all around. In at least one place a lot of copies of the letter were circulated shortly after it was received.

Q. Referring you to Board's Exhibit 92-B, marked 92-B, and refer you to Section 78 under the heading "Scale Committee's recommended Proposal."

A. Yes, sir.

Q. Was that 78 provision that appears in Board's Exhibit 92-B a provision that was tentatively agreed upon with the local scale commitee?

[3802] A. It is not.

Q. Wherein does it differ—entirely or in part?

A. In part.

Q. In what respect?

A. In respect to the words "and his admission into the union". That roughly is it. The minutes of the meeting in question will show what the agreed-upon language was. I think that would be the minutes of the twenty-second meeting. I have them here and if I may read—

Q. (Interposing) Board's Exhibit 104?

A. Section 78, headed "According Priority".

"On the completion of the term of service of an apprentice, he shall be placed at the bottom of the priority list in the office in which he is working."

Q. Were you present at a meeting on May 7?

A. I was.

Q. Where was that meeting?

A. At the Association office.

Q. Who else was there?

A. For the publishers, Mr. Lane and Andrew Fisher; J. F. Cullen; B. B. Stevens; A. H. Savage; J. D. Garvey; Mary McClung; Marvin Berger; J. E. Martin; N. S. Macneish; E. T. Burke; Edmund Goodrich; Theodore Newhouse; Robert Hunter, and myself.

For the International Typographical Union, Woodruff [3803] Randolph; For local No. 6, Lawrence H. Victory; John G. McGann; Daniel J. Newman; James C. Mooney; William Ward; Harry M. Massey; John J. Landey; William E. Shannon, and Water H. Peters.

Q. What time was this meeting held?

A. I need to have my memory refreshed. It was in the afternoon. I think probably it was scheduled for 2:30. I don't remember.

Mr. Van Arkel: Do you want to stipulate as to the time, Mr. Sinsheimer?

Mr. Sinsheimer: We will agree it was in the afternoon.

Mr. Van Arkel: Good. Let's make sure we get it right, though.

Q. (By Mr. Sinsheimer) Will you state what occurred at the meeting?

A. In general?

Q. Can you state the situation, exactly what took place at that meeting?

A. I could tell you exactly what took place, if you wish me to refer to my records here.

Q. Will you please state what occurred at the meeting?

Trial Examiner Leff: What record are you referring to?

The Witness: I am referring to a complete report of the meeting which I dictated on Saturday morning, the 8th day of May, as a result of my own recollection, plus a memorandum [3804] I dictated to myself within a matter of minutes after the meeting ended; plus longhand notes taken and read to me at the meeting by Andrew Fisher, Mr. Lane's assistant; plus shorthand notes taken at the meeting and read to me by Marvin Berger, of the New York Post.

Q. Will you tell us what occurred at this meeting?

A. Mr. Sinsheimer, if you want me to read it to you—

Trial Examiner Leff: (Interposing) Do you have a memory of what happened independent of that document?

The Witness: I have independent of the document.

Trial Examiner Leff: So place the document aside and tell us what you recall.

The Witness: I may refresh my memory on certain words, if I wish. Right?

Trial Examiner Leff: If your memory requires refreshing, you may.

The Witness: Mr. Examiner, I don't know. You see, I am sort of lost here because I am a newspaper man and I don't understand anything, but I do feel a compelling obligation to try to tell you exactly what happened at this meeting, particularly in view of the fact that I have heard testimony which will conflict with what I say to you. That is why, if you wish, I can give it to you word for word.

Trial Examiner Leff: We are merely following the legal rules of evidence. If you have an independent memory, you [3805] may not refer or examine a paper to refresh it. If the testimony shows that you cannot remember without refreshing your memory, then you may look at the paper.

The Witness: I think I would have to say I don't need to look at the paper, then.

Trial Examiner Leff: Very well. Tell us what happened now.

The Witness: The meeting opened and Mr. Randolph said that the publishers undoubtedly realized the manner in which he came into the picture, but there were certain questions that arose in his mind and he felt he should clear himself up on those before going any farther. He said he was concerned with some features of the proposal which the publisher made to the union; whereupon Mr. Lane pointed out to him that this was an opportune moment, for him, Mr. Lake, to correct what Mr. Randolph had said and any impression he may have had because it was not a proposal which the publishers made to the union but, rather, and instead, a proposal made by the union committee to the publishers.

Mr. Randolph said, "No, that couldn't be."

Mr. Lane reiterated that it was. Mr. Randolph turned to Mr. Victory and said, "What about it?"

Mr. Victory said, "Well, that is right. We made the proposal to them. It was our proposal."

Whereupon Mr. Randolph communed with himself for a [3806] protracted period and said that this caused him to give pause and have to reflect. He said after some moments of silence, "I suggest that Vice President Brown will be in town by Monday and that you appoint a subcommittee to go into this matter with Vice President Brown and myself."

Mr. Lane said, "Well, then what about the local union?"

Mr. Randolph said, "What do you mean about the local union?"

Mr. Lane said, "Well, do I understand you to suggest that we appoint a subcommittee to meet with just you and Mr. Brown?"

Mr. Randolph said, "Yes."

Mr. Lane pointed out that this was a matter in which the local union had vital interest and had helpful experience in negotiation, had participated in negotiation, and could be helpful in any discussions that might take place.

Mr. Randolph pointed out to Mr. Lane that there was a line down the middle of the table and Mr. Lane dare not transgress it.

He informed Mr. Lane pointedly that it was not the publishers' right to suggest with whom they would talk at a moment such as this.

Mr. Lane said, "I haven't claimed any such right." I am not quoting directly, as you know.

"But we certainly feel that the local people should be in on this thing."

There was a caucus along about then and following the caucus Mr. Lane said, "I asked for a caucus because I wished to determine the disposition of the other persons on this side of the table, and I find that they feel just as I do and we certainly would like to have the local people represented when we discuss this thing."

Mr. Randolph reiterated the fact that he and Mr. Brown would be willing to meet with representatives of the publisher. He said, "You can have as many on your side of the table as you wish, but you are not going to tell us who is going to be on our side of the table."

He said, "I haven't anything to say about who is going to represent the local publishers, and it is none of your business who is going to represent the local union."

Mr. Lane said, "It is a great deal of our business."

Then he went along in the same nature and finally Mr. Lane turned to Mr. Randolph and said, "Mr. Randolph, may I inquire if it is the desire of the local people to be excluded from this matter in any way?"

Mr. Randolph whereupon replied at once and heatedly, "The local people have no desire in this matter. I'll tell you Mr. Brown and I will be the ones who will represent the union on this side of the table. We will be available to meet with you on Monday."

[3808] We had another caucus and, again, Mr. Lane calmly pointed out that, "We have to live with our local people. It is a contract between the publishers and the local union."

He said to Mr. Randolph, "You can come in here and be in here 20 minutes and get on out of here and wash your hands of the whole affair, but we have to live and work with these people 52 weeks in a year."

Either then, or perhaps it was at an earlier point, Mr Lane emphasized the fact that the local people were necessary because we had had a most distasteful and costly—and I am thinking of the expenditure of time more than money—experience as a result of our negotiations of a year ago, at which time Mr. Randolph came in, and in the absence of the local union committee, or any of the local people, union people, informed us what would be necessary if we were to have a contract.

Q. (By Mr. Sinsheimer) Did Mr. Lane bring up this matter and point out that Mr. Randolph had been in the year before at this meeting?

A. That is just what I am saying. Mr. Lane said, "You came in here. We settled this contract and then you went on back to Indianapolis. As a result of the absence of all local people at that time at that meeting, a great many questions arose and we had a whole group of grievance cases. We wrote letter after letter to you saying, 'Will you please [3809] corroborate what we have said to the local union which shows the intent of the parties when this contract was discussed.'"

Mr. Randolph had steadfastly refused to have any part of it and had said that there was grievance machinery in the contract and if any dispute existed it could be settled that way.

Mr. Lane said again that if local people had been present, there never would have been any misunder-

standing. "We wouldn't have had all these grievances." He pointed that up.

Mr. Randolph reiterated his position and announced—maybe I am repeating—that he and Mr. Brown would sit on the union side of the table and if they felt they needed any advice or counsel or aid, they, and they alone, would call for it.

He said, "Do you mean to say to me, Mr. Lane, that unless we have the local people present, you won't meet with Mr. Brown and me?"

Mr. Lane said, in essence, "That very well might be the case."

Mr. Randolph said again that he and Mr. Brown would be available and he could call our office on Monday morning or our office could call him at his hotel, the Edison, on Monday morning to set up a meeting. I told him that he could call me.

[3810] He said would I be around on Monday morning, and I said I would.

On that note, the meeting broke up.

• • •

[3814] • • • Q. (By Mr. Sinsheimer) Mr. Mapel, following this matter on May 7, did you write a letter to Mr. Randolph?

A. I did.

Mr. Sinsheimer: I ask that there be marked as Board's Exhibit No. 108 a copy of a letter dated May 8, 1948, addressed to Woodruff Randolph, President, International Typographical Union, and Lawrence M. Victory, President, Local Union 6, signed by William Mapel, Vice-Chairman.

(Thereupon the document above referred to was marked Board's Exhibit No. 108 for Identification.)

Q. (By Mr. Sinsheimer) I refer you to the Board's Exhibit No. 108 for identification. Is that a letter which you wrote to Mr. Randolph?

A. And Mr. Victory.

Q. And is that an exact copy of the letter?

A. It is.

Q. Was that letter sent through the mails or was it sent by messenger?

A. Sent by messenger.

[3815] Q. And delivered to both Mr. Randolph and Mr. Victory?

A. I know that it was delivered to Mr. Randolph because the boy brought back the receipt with his signature which I think I recognized. I was told by Mr. Victory that he had received it.

Q. Did Mr. Randolph make any reply either written or verbal with respect to the letter?

A. He made an oral reply.

Mr. Sinsheimer: First I will offer Board's Exhibit 108 in evidence.

Mr. Van Arkel: Same objections.

Trial Examiner Leff: You mean it covers a matter after the injunction date?

Mr. Van Arkel: Yes.

Trial Examiner Leff: Objection overruled. Received.

(The document heretofore marked Board's Exhibit 108 for identification was received in evidence.)

Q. (By Mr. Sinsheimer) You state Mr. Randolph made an oral reply?

A. Yes.

Q. When was that?

A. About eight minutes after eleven on Monday morning.

Q. On what Monday morning—May 10?

A. May 10.

Q. Was that in person or on the telephone?

[3816] A. On the telephone.

Q. Did you call him or did he call you?

A. He called me.

Q. And what did he say?

A. He said, "This is Randolph. Did you expect any acknowledgment of the letter you wrote me on Saturday?"

Shall I carry on?

Trial Examiner Leff: Yes, please do.

Q. (By Mr. Sinsheimer) Yes.

A. He said, "What about the letter?"

I said, "What about our request?"

He said, "I am telling the local union that anyone who wishes may come to the meeting."

Then he repeated it, and I wish I had taken it down because I think that is just about what he said.

Mr. Van Arkel: Mr. Examiner, do we have to hear what Mr. Mapel wished he had done?

The Witness: He repeated it.

Trial Examiner Leff: Objection overruled.

The Witness: He repeated it. I said, "Then we will meet you at 3:30 this afternoon."

That was the acknowledgment that I had from Mr. Randolph.

Q. (By Mr. Sinsheimer) And then you had a meeting that afternoon?

[3817] A. Then I had an acknowledgment from Mr. Victory.

Q. Mr. Victory called you?

A. Yes.

Q. What did he say?

A. He called me about seventeen minutes after eleven and said, "Well, he just called."

I said, "So did I have one."

He said, "Well, he called up and said, 'Anybody who wanted to come to the meeting could'. Then I said, 'Then we will all be there.' I said the meeting is at 3:30'."

Q. Did he tell you who "he" referred to when he said, "He called up."?

A. No, sir. He said "he".

Q. Whom did you understand him to refer to?

A. I understood him to refer to Mr. Randolph.

Q. This letter of May 8, was that delivered on the 8th, or what day was it delivered?

A. It was delivered on May 8.

Q. That is to Mr. Randolph and Mr. Victory?

A. And Mr. Victory.

Q. Were you present at a meeting that afternoon?

A. I was.

Q. Who was there?

A. I have to use a similar memorandum and I will have to say I feel it is necessary to use this to refresh my [3818] recollection because I read it a while ago, and there are many, many points in it, and I find it necessary to use it.

Mr. Sinsheimer: I ask that the witness be permitted to refer to this memorandum.

Q. (By Mr. Sinsheimer) How was this memorandum prepared?

A. Beg your pardon.

Q. How was this memorandum you are now referring to prepared?

A. In precisely the same manner as the one prepared on Saturday, the 8th.

Mr. Van Arkel: I think we should have the witness' independent recollection first.

Trial Examiner Leff: Do you recall the substance of the conversation?

The Witness: I would say to you that I recall many things that were said, but I would like, if you will permit me, to use this. You will see that there were so many different subjects and such a cross of conversation that it would be difficult for me to give you the accurate picture I feel you wish.

Trial Examiner Leff: I am sure if you inadvertently overlook something, Mr. Sinsheimer by his questions will direct your attention to it. I think we should have your recollection of what occurred, unless you say you have no recollection at all.

[3819] The Witness: I cannot recall at the time who were there, Mr. Examiner.

Trial Examiner Leff: Is that important?

Mr. Sinsheimer: I don't think it is, except to this extent:

Q. (By Mr. Sinsheimer) Who was present for the International Union?

A. Mr. Randolph and Elmer Brown.

Q. And were substantially the same people for the other parties as had been present the Friday before?

A. I think identically the same presons were present for the local union, but there were a number of additional persons present for the publishers.

Q. All right.

Now, will you state what occurred at that meeting?

A. From memory?

Q. Yes, please.

A. Mr. Randolph came in and handed an envelope to Mr. Lane and said, "Mr. Lane, here is an official statement for you. I have laryngitis and won't bother to read it. Mr. Brown can pass copies around to all concerned and everyone may read it for himself."

So, Mr. Brown passed the copies around to those present, including many of the members of the local union committee, and everybody read it.

[3820] Q. Was that statement which is in evidence as Board's Exhibit 93?

A. Yes.

Q. After the people present read it, what happened?

A. Mr. Lane said once again he felt it necessary to say that the reference to the publishers' proposal was an erroneous one. He said that the reference to the fact that the publishers had not made a proposal was erroneous. He said there were many parts of the thing he didn't understand and he was glad that the union committee was present because they could bear witness to the veracity of his statements, that this matter of a proposal needed amplification. The union had given to the publishers at the outset a "phoney" proposal. The publishers later had made their proposal. The union had brought in substitutes and what-not, and retreated here and advanced there, and in the long run the proposal which was the basis for the meeting of the minds of the two scale committees was from the union to the publishers.

He pointed out that there were many reasons why the proposal came from the union. One was that it was quite obvious that the publishers who had proposed the complete elimination of bogus could not be expected to make a proposal for a small degree of watering down this "reprehensible "practice.

[3821] Mr. Randolph said it was quite obvious he didn't belong in there. Mr. Lane said, "Well, now, what about this local union? We don't understand the thing."

Mr. Randolph said, "This has been prepared with care and it speaks for itself and I am not going to amplify it."

Q. Was he referring to that?

A. His statement. Mr. Lane said, "Well, now, what about the local committee and what about this veto power you exercise over the local committee? Is the local committee going to continue to be a Charlie McCarthy?"

Mr. Randolph said that it was against his policy to indulge in personalities and then he proceeded to indulge in personalities concerning Mr. Hanson and the A.N.P.A.

Mr. Van Arkel: I wonder if we could have what was said.

Trial Examiner Leff: Strike that portion beginning with the words, "Then he proceeded to indulge in personalities".

Q. (By Mr. Sinsheimer) What did he say?

Trial Examiner Leff: Just tell us what was said at the time, without characterizing what was said.

The Witness: All right.

May I refresh my memory in order to try to give it to you word for word?

Trial Examiner Leff: I don't want it word for word. I [3822] want the substance of it.

The Witness: He characterized Mr. Lane and Mr. Hanson as being the equivalent of Charlie McCarthys for the A.N.P.A. line, as he called it, party line. He said there was a striking similarity between Mr. Lane's remarks and remarks made by Mr. Hanson, and there was a further striking similarity between the remarks of those two gentlemen and remarks he had heard all over the country, which, he said, caused him to refer to the party line.

He said he didn't want to deal in personalities. Mr. Lane said, "We might as well talk frankly across the table here. We are trying to find out what you mean by some of these things."

There was one phrase in the document which had to do with our legal rights, or some such thing, and Mr. Lane said, "What does that mean?"

Randolph said, "I am not going to amplify this."

Then he pointed out the fact that notes were being taken, and that all this was being used in order to build up a record against him, and that he would be no party to contributing to such a record.

There was a caucus. Following the caucus Mr. Lane asked Mr. Randolph if he would amplify or try to clear up, I think, point No. 5, on the first page, and point No. 3 on the second page of the letter. Mr. Randolph said he would [3823] not do so.

Mr. Lane said, "I am interested in this reference to the friendly A.N.P.A. and it happens that we have Mr. Edwin S. Friendly of the New York Sun who is vice-president of the AN.P.A. I would ask Mr. Friendly to contribute comment at this moment."

Whereupon, Mr. Friendly told Mr. Randolph that he was in error; that the A.N.P.A. had no influence which it could exert over publishers in New York or elsewhere; that—I have forgotten all of his statements, but, finally, he said, "What you have said is just wrong and I will tell you further that if the A.N.P.A. were to try dictate or dominate to these publishers, these publishers would tell the A.N,P.A. to go jump in the lake."

Mr. Lane sought again to get some information. Mr. Randolph refused again. He said he was getting out of the picture.

Mr. Lane said, "Well, what is the next step? What is the position of the local union?"

Mr. Randolph stated the local union will contribute an answer to that statement.

Mr. Lane said, "We don't understand this and we wonder about future negotiations with the local union. We wonder if they understand."

Mr. Randolph said in effect, "They probably don't understand any more about it than you do."

[3824] Whereupon Mr. Victory affirmed Mr. Randolph's conclusion and said, "I only got this a minute or two before you did."

Mr. Lane said, or, rather, he asked if it would not be in order, since Mr. Randolph was writing himself out of the picture, if the local union representatives could remain and bargaining resumed at the local level, forthwith.

Mr. Victory said, "I can't do that. I don't know what this means. I will have to consider it and study it."

Now, I am sure there is a lot more that I don't recall, but that is my memory of the thing; whereupon Mr. Randolph and Mr. Brown walked out of the room and the local union representatives followed them with varying degrees of promptness and rapidity.

Q. (By Mr. Sinsheimer) When Mr. Victory referred to "this", what was he referring to?

A. That was the statement Mr. Randolph had given to us.

Q. Board's Exhibit 93?

A. Yes.

I suddenly have a reoccurrence of memory on one point. Mr. Lane said to Mr. Randolph, "Well, now, we have cleared up this matter of the publishers making a proposal. Obviously what you have written in this thing is not true; it is in error. In view of the fact that you have given this statement to the reporters, would you not care to have an opportunity at this moment to correct the false part of the statement?"

[3825] Mr. Randolph said, "I won't change it." He said, "No, I won't change it."

Q. What part of the statement was Mr. Lane referring to?

A. You will have to let me look at the statement to answer it, but it is the part that had to do with the fact that the publishers had not given a proposal to the union.

"The publishers association of New York City has not made a complete proposal of a new contract to New York Typographical Union No. 6."

Q. You asked for a further explanation, rather, Mr. Lane, of point 5 and also point 3 on page 2?

A. That is my recollection, Mr. Sinsheimer. Mr. Lane did refer to point 5 on page 1 and point 3 on page 2. I thing at the time he referred to point 3 on page 2.

Mr. F. M. Flynn of the New York News said to Mr. Randolph, "I find myself confused on this thing, also, Mr. Randolph, but I am interested in the practicalities of the matter. Where do we go from here?"

Mr. Randolph said that he was sorry, but he could not make any suggestion or any answer. He was not going to make any further amplification of what he said.

Q. Have you had any meetings with either Mr. Randolph on the local union since that time?

A. We have not.

Q. As of April 5, did you at that time reach your tentative [3826] agreement with respect to jurisdiction clause with the local?

A. Yes.

Q. That is set forth in Board's Exhibit 102?

A. That is right.

Q. Did you consider that the addition of the words, "not specifically enumerated herein" to the laws clause limited the application of any jurisdictional provisions in the laws?

A. I will have to do a little refreshing before I answer that.

No, we did not consider that because that is a direct lift from the language of the old contract.

Q. What would limit the union's claiming jurisdiction over Varitypers?

A. The jurisdictional clause rather than the laws clause.

Q. Is that a statement, "It is the intent of the parties that this contract shall neither take away from or add to such jurisdiction"?

A. Also the fact that it is mutually agreed insofar as lawfully possible that the jurisdiction of the union heretofore recognized shall be preserved. We bargained definitely on the word "recognized" in order that—it was understood between the parties that "recognized" meant mutually recognized, not claimed. There is no question that the local union representatives are in agreement with us as per their statement made at the subcommittee meeting and made by me on their [3827] behalf as well as Mr. Stevens and myself to the full committee, that the jurisdictional clause as now written permitted the incorporation in the contract of the laws clause because the jurisdiction clause definitely wiped out any possibility of considering Varitypers to be covered by our contract.

Mr. Sinsheimer: This is a brief statement of information to which a duly-qualified witness would testify.

Mr. Van Arkel: Do you want this to go in as an exhibit?

I will stipulate if the persons were called, they would testify to those facts.

Is it given a number?

Trial Examiner Leff: Yes, 109.

(Thereupon the document above referred to was marked Board's Exhibit No. 109 for identification.)

Mr. Sinsheimer: Will you agree that if duly-qualified witnesses appeared here to testify, that they would testify to the facts set forth in Exhibit 109 for identication?

Mr. Van Arkel: Yes.

Mr. Sinsheimer: With that understanding I will offer Exhibit 109 in evidence.

Trial Examiner Leff: It is admitted.

(The document heretofore marked Board's Exhibit No. 109 for identification was received in evidence.)

[3828] Trial Examiner Leff: The 15 additional are the New York dailies to which you referred earlier in your testimony?

The Witness: There are 16, but the Jersey Journal is not included in there.

Trial Examiner Leff: Are you finished with the witness?

Mr. Sinsheimer: That is right.

Trial Examiner Leff: Do you have any questions of the witness?

Mr. Hanson: Two, I think.

Q. (By Mr. Hanson) In your testimony you referred to Mr. Lane's characterization of the union proposal as a phoney proposal.

A. Yes.

Q. Did he elaborate on that?

A. Yes. He was referring to the original proposition made by the union that it offered to us conditions of employment. He called that a phoney proposal. Later on he referred back to that as phoney.

Q. Now, isn't it a fact, Mr. Mapel, that your first eight meetings with the union were all held prior to March 26, 1948?

A. That is right, sir.

Q. And that at those meetings, the only subjects discussed were the union's suggestions for conditions of employment, [3829] Form P-6-A, or settlement of economic issues and continuation of negotiations?

A. Plus the insistence of the publishers that we have a firm contract in.

Q. The only things presented by the union were those three?

A. That is right.

Q. And the publishers rejected them?

A. That is right.

Q. Those meetings ran from February 5 through March 23, did they not, those eight meetings?

A. That is right, sir.

Q. And then in the period between March 29 and April 15, the negotiating parties reached a tentative agreement on a full contract?

A. That is right.

* * *

[3830] * * * Q. (By Mr. Hanson) Prior to March 29, what did they say about their ability to bargain for a contract?

A. Prior to March 29 they said repeatedly that stumbling blocks were in the road; that they were under wraps; that they could not bargain with us in the traditional manner. They could not give us an affirmative answer to our question as to a firm contract, or as to a lawful contract. They suggested repeatedly that we follow the example in other cities and towns of making some sort of a financial adjustment in rocking along.

They kept reminding us that legal barriers existed. They kept saying to us, "Why can't we work out something here, because we can't—"—I am not quoting directly—"—but we can't ever agree to give you a firm contract. We have to have a 60-day cancellation clause. That is the nearest we can go."

I think they made reference to a letter of October 6 or 7 from the International in which the International had given to its locals permission to submit Form P-6-A rather than conditions of employment. They said, "We will do anything we can, but we can't." And, again, I am not quoting, but [3831] it was quite obvious that they were saying, "Our hands are tied."

Mr. Van Arkel: I move that be stricken, Mr. Examiner.

Trial Examiner Leff: Motion granted. Strike beginning with the words "it was obvious."

Q. (By Mr. Hanson) At the time they submitted the New York commercial printing formula on March 23, did they offer a firm contract for any period?

A. No, not at that time.

Q. But after March 29, they did?

A. That is right, and they explained why.

Mr. Hanson: I think that is all.

• • •

[3859] • • • *Cross Examination.*

Q. (By Mr. VanArkel) Mr. Mapel, from what source does the New York Publishers Association derive its funds?

A. From its members.

Q. Does it have any substantial cash reserve?

A. What do you mean by "substantial"?

Q. Well, let me ask this question: Do the dues of the members of the organization about cover its operating expenses?

A. The dues and the assessments.

Q. Is there some surplus left over?

A. Very small.

Q. A very small one?

A. Yes.

Q. So that the Publishers Association is not financially responsible in the sense that it could respond in damages in the event of a suit for violation of an agreement?

• • •

[3860] • • • Q. (By Mr. VanArkel) What menas does the Publishers Association of New York City have, Mr. Mapel, to compel its members to observe any agreement?

A. The Association as such?

Q. Yes.

A. I know of no menas.

Q. That is, whether or not any individual member will sign any particular collective bargaining agreement is purely in the discretion of the member of the Association?

A. When an agreement comes up for bargaining when we are about to renew a contract or write a new contract any member of the Association has an opportunity to say he wishes the Association to act as agent in the bargaining or he wishes the Association not to act as his agent in the bargaining.

Q. Now, let us assume that an agreement were reached which [3861] one of the newspaper members objected to would it be free to repudiate the authority of the Association to act as agent?

• • •

The Witness: Well, in view of the fact that such a situation never has occurred to my knowledge and certainly in view of the fact that there never has ever been any discussion of such a hypothetical situation any answer that I might [3862] make would be purely conjecture.

• • •

[3863] • • • Q. (By Mr. VanArkel) I take it, Mr. Mapel, you were aware of the laws of the International Typographical Union during these negotiations in 1948 which required approval of the executive council of the Typographical Union of agreements that might be reached?

A. You mean approval after an agreement had been reached?

Q. Well, that at some point the executive council of the Typographical Union had to approve an agreement if it were [3864] to become effective.

A. No, I can't say that because our history of bargaining with this union has not been in line with what I think you mean by your question. In the past many and many a time an agreement has been reached with this union which—

Q. When you say "this union" do you mean with Local 6?

A. With Local No. 6, yes. Many, many time the publishers have reached an agreement with Local No. 6 which was voted on by the membership of Local No. 6, ratified, signed by the local and by the publishers and then sent along to Indianapolis for underwriting.

Q. Have there been occasions prior to 1947 when you operated under contracts which were not approved by the executive council?

A. Prior to when?

Q. 1947.

A. We are operating now on a Mailers' contract-ITU which was not underwritten by Mr. Randolph.

Q. When was that agreement reached, Mr. Mapel?

A. It was reached approximately two years ago as of May 6th.

• • •

[3867] • • • Q. Now, I believe you testified that in the course of your negotiations in New York the representatives of the local union presented to you a contract in the form of P6A, did they not?

A. No. They suggested at I think about the fifth meeting that there were three courses: One, Conditions of Employment; two, P6A; and, three, settlement of economic issues and rocking along on others.

• • •

[3868] • • • Q. Now, did you at that meeting reject an agreement in the form of Form p6A?

A. I told you they did not offer us P6A. They merely said there were three courses. We pointed out to them that all three of those courses failed to meet the two requirements we felt should exist and should exist in the form of an agreement, namely, that, one, we have a contract firm in term and, two, a contract which would be completely within the law.

Now, with respect to P6A we pointed out that a contract with a sixty day cancellation clause in no way could be considered a contract firm in term for at least a year.

Q. Now, had you been advised by your counsel, Mr. Mapel, that the union's request for a sixty day cancellation clause was an unlawful request?

A. No.

Q. That is, for practical reasons you desired an agreement for, let us say, at least the period of one year, is that right?

A. Well, we desired a contract in line with the tradition [3869] of the relationship between the union and the publishers.

• • •

Q. (By Mr. VanArkel) I say so far as you were advised there was nothing illegal in the union's asking for a sixty day cancellation clause to appear in an agreement?

A. We were never advised that the sixty day cancellation clause itself was illegal.

• • •

[3875] • • Q. You say the union first asked that wages be discussed. When did the union first ask that wages be discussed, Mr. Mapel?

A. I can't recall that the union ever said, "Let's talk wages". From the first meeting up until after the Swygert injunction came the union said, "Why can't we push this aside and talk the economic factors"?

Q. And how often did that occur, Mr. Mapel, was that request renewed?

A. Well, without going back to my notes I wouldn't be able to tell you. Several times.

Q. Now, I take it your position was one of being unwilling to discuss any economic matters until you had an assurance on the two points which you had put forward, is that correct?

A. Well, our position was that until we could find out if [3876] we were bargaining for the kind of contract we have had in the past it would be almost useless to go into anything else.

• • •

[3896] • • •Q. (By Mr. Van Arkel) Is it a fact Mr. Mapel, that there has been in the printing trades for many years a tradition that union printers do not work with nonunion printers?

• • •

The Witness: We were told in the earlier meetings of our bargaining experience in 1948 of such a tradition.

Q. (By Mr. Van Arkel) You had no reason to doubt the existence of that tradition, did you?

A. Well, we had a contract with Big Six in New York City since 1907, whihc has been a closed shop contract. That would embrace two or three generations of printers. I presume that there isn't anyone of our printers in New York City in our newspaper who ever has had the problem of working with a nonunion mman; but they use such terms for nonunion men that it is quite clear the feeling they have about working with them.

Q. Now, were you advised by your attorneys, Mr. Mapel, that the Taft-Hartley Act required union printers to work with non-union printers?

A. We were advised by our attorneys that we could not write [3897] a contract which forbade or precluded a nonunion printer from having an opportunity to seek employment.

* * *

[3898] * * * Q. (By Mr. Van Arkel) Let me ask this then: During the course of these negotiations, was there any discussion with respect to the problem of the hiring of non-union men?

A. Yes.

Q. Would you tell us what discussion you had?

A. Well, a great deal of it centered around the school for printers' apprentices in New York City, and the desire of the local union to have the competency of unknown applicants tested and ruled on by the board of examiners of that school. I recall that Mr. Mooney, the secretary-treasurer of the union, spoke at some length on that subject one day with reference to the examination of union persons by the school. He dwelt on the nonunion man, and said—and I believe I am quoting him word for word—"We cannot exist half slave and half free".

Q. Was there any discussion during the course of these negotiations as to what the obligations of the union were in the event nonunion men were hired in the composing room, Mr. Mapel?

A. I think it was Mr. Landey who once said with some fervor that he couldn't be made to work with a nonunion man, and he hastily said, of course, "That is my own personal opinion". [3899] There were many references to the subject.

Q. Well, did any representative of the publishers state what, in his judgment, the obligations of the union were in the event the publishers were to hire nonunion men?

A. I think that it was stated more the concern that the publishers had that vengeance would be wreaked upon them if circumstances brought nonunion men into the picture, in answer to a crying need for manpower.

Q. I would like to get an answer to this question, if I can, Mr. Mapel.

Did you ever, as representative of the publishers, say what you thought the obligations of the union were in the event that nonunion men were hired?

A. I think that the union made clear to us that if we did not wish to use the Taft-Hartley Act as an instrument to destroy the union, then there were ways and means of seeing to it that nonunion men would not—no, that union men would not be required to work with nonunion men. And Mr. Lane said repeatedly that is just what bothered him and us—that that in a sense was asking us to connive to discriminate against a man simply because he had no union card.

Q. Well, now, you made your position quite clear that you felt under the law you had to hire new applicants without discrimination, is that correct?

A. We made our position quite clear that under the law we [3900] could not indulge in preferential hiring to the discrimination of nonunion men.

Q. Now, did the discussion go on from that point, Mr. Mapel, as to what the obligations of the union were beyond that point—that is to say, if nonunion men were hired?

A. I seem to recall that in one or more instances, the gist of the conversation was that the union felt, "Well, we don't have to work. You can't make a man work. It violates the Constitution." And so I, quoting one man—and I am not saying that I can name him—"don't have to work with a nonunion man, and I am not going to, and the law can't make me."

• • •

[3907] • • • Q. (By Mr. Van Arkel) Since August 22, Mr. Mapel, has any member of the New York Publishers Association, to your knowledge, hired a nonunion stereotyper?

A. I think not.

Q. A nonunion photo-engraver?

A. I feel sure not.

Q. A nonunion pressman?

[3908] A. Well, I think that gets into a realm of permit boys, who are not members of the union, so the answer would be misleading.

Now, may I say to you that many of the contracts which were in effect as closed shop contracts as of August 22 still are in effect.

Q. Some have expired, however, have they not?

A. Some have expired. The pressmen and the stereotypers.

Q. And those contracts have been renewed with union security clauses?

A. The maximum.

Q. Providing for nondiscriminatory hiring?

A. Providing for the union shop.

Q. But nondiscriminatory hiring of applicants for employment, is that correct?

A. Well, we have screened these contracts with our lawyers, and since discriminatory hiring would be unlawful, I think the answer would be yes.

Q. Yet nevertheless there have been no nonunion men hired in the other mechanical departments?

A. Well, there have been only two contracts which have been promulgated since August 22. The pressmen and the stereotypers.

Q. About when were they renegotiated?

A. The pressmen, as of the end of the year; the stereotypers, [3909] as of about the 19th of February, I think.

Q. But under neither of those contracts have any nonunion men been hired by any publishers, Mr. Mapel?

A. I haven't heard of it.

Q. Do you have any explanation for that fact?

A. No.

Q. There are nonunion stereotypers and pressmen in New York, are there not?

A. I am not too sure about stereotypers and pressmen. I have never had that question asked. I know there are many, many nonunion printers, but I never thought about stereotypers and pressmen.

Q. In any event, in these other crafts you have not found where the members of your Association—have not found that a situation has arisen where they have been required to hire a nonunion man, would that be correct?

A. Well, members of the Association recognize that under the contracts that have been executed, if they do hire nonunion men the union shop thirty-day provision would govern.

Q. But even without that they have not hired nonunion men?

A. I say I have not known of any instances.

Q. Do you conceive that the hiring of nonunion men in any of these mechanical trades might cause some disruptions of production in the other crafts?

A. Under those union shop contracts?

[3910] Q. Yes.

A. No.

Q. You see no slightest reason?

A. Well, now, wait a minute. You asked me if I conceived it would cause a disruption, and I said no. I think that's the answer.

Q. What, in your judgment— Strike that.

During the negotiations was there any discussion between the representatives of the publishers and the representatives of the union as to what the union's remedy should be in the event a publisher deliberately set out to flood his composing room, let us say, with nonunion men?

• • •

A. There wasn't any discussion, because even the members of the local union were perfectly well convinced that we had no desire to make use of this Act as an instrument to destroy the union, and the mutual guarantees, I think, took care of [3911] that thing for once and for all.

• • • •

Trial Examiner Leff: Yes. You referred to the fact that nonunion men have been hired in the mail room and delivery rooms of certain newspapers.

The Witness: For many years.

Trial Examiner Leff: Was that permitted by the contract, Mr. Mapel?

The Witness: Yes. The contract expressed an obligation on the part of the union to purchase adequate manpower and said if, as, and when the men are not furnished, then the publisher would go out on the highways and by-ways and get such men as he needs.

[3912] Trial Examiner Leff: So when the publishers hired nonunion men in the mail room and delivery department, they were doing that pursuant to the contract?

The Witness: That is right.

Trial Examiner Leff: Because the union at that time was unable to supply men?

The Witness: That is right.

• • •

[2927] • • • Q. (By Mr. Van Arkel) Let me ask you this question, Mr. Mapel. I believe in your direct testimony you also stated that you were worried about this language:

"That the League and its members will not undertake any activity which will in any sense undermine or jeopardize the union's strength or security or the well-being of its members."

A. Yes.

Q. You felt that was illegal?

A. No. In the first place, it isn't clear at all. It is subject to various interpretations. Undoubtedly, that kind of rhetoric results in differences of opinion and grievance sections, [3928] this, that, and the other. It is bad business to have that kind of language in contracts, although I confess we have similar language in many of ours.

Q. In any event, you felt that any commitment by you in which you stated that you would not undertake any activity to undermine or jeopardize the union's strength or security or the wellbeing of its members might run afoul of the law?

A. Might.

• • •

[3956] • • • Q. Now, directing your attention, Mr. Mapel, to Board's exhibit 96, the proposal which you made on March 26, 1948, I believe.

A. Yes.

Q. To begin with, that proposal contained no provisions dealing with wages, hours or other economic questions, did it?

A. That was covered in Section 5—paragraph 5 on page 3.

[3957] Q. However, your proposal made no mention of those matters, I take it, other than that.

A. Our proposal came—

Q. Other than that.

A. That is right.

Q. Had you prior to that time made any proposal to the union covering wages, hours and the other matters which were to be covered under paragraph 5?

A. We had not.

Q. I believe you stated in presenting this proposal that acceptance of this by the union would make it possible to discuss wages, hours and other working conditions, is that correct?

A. Are you quoting from it, Mr. Van Arkel?

Q. I thought I was. I may be quoting from your testimony.

A. Let us just see. You may be doing just that. No. I think if you take the last sentence of the first paragraph there: "What is here offered to the union clears the way for speedy agreement on a contract to replace that which expires March 31, 1948."

Q. Where are you reading from?

A. The last sentence of the first paragraph of exhibit 96, the last two lines.

Q. I see. Prior to this time the union had requested from you proposals with respect to wages, hours and working conditions, [3958] had they not?

A. No, I wouldn't say that. We made this proposal on the 26th. On the 23rd the union proposed the Employing Printers formula to us and on interrogation by Mr. Lane Mr. Victory explained the Employing Printers formula. Mr. Lane would object to this or object to that and Mr. Victory would say, "Well, all right. Suppose you suggest something then". And he said it so many times and I say in my opinion he seemed sincere in his desire to find a solution to these problems which apparently were holding us up, that immediately following the meeting of March 23rd we determined that we would give to the union at the next meeting a proposal which would tend to leave us free then to go into the matter of wages, hours and other conditions, as would be covered in that paragraph 5.

Q. You were free before that to discuss those matters, were you not, Mr. Mapel?

A. The union was not free and when I say that I mean the joint committee.

Q. But the union had requested that those matters be discussed before, had they not?

A. Yes, the union had said, "Let's throw everything aside and talk about economic factors".

Q. Now, then, there was no question about the freedom of the union to discuss economic questions, was there?

[3959] A. No, and I must not have my language misunderstood on it and I must make myself clear to you. We thought in this proposal that we gave to them on the 26th of March that we had covered everything that had been bothering the publishers and had been recognized as a bothersome factor by the union and we said, "Now, if we can agree on what you now call exhibit 96, then the pathway will be clear for us to go on and talk about the other matters".

• • •

[3962] • • • Trial Examiner Leff: I would like to clear up one point. You said that in order to become a member of Local 6 one had to pass an examination.

The Witness: Yes.

Trial Examiner Leff: In answering that question were you thinking of a person who had never been or was not a member of the union or were you also including an ITU member from outside who wanted to join the union?

The Witness: Oh, no, I did not make it clear. We will say some man out in northwest Missouri walks in and says he wants to work on one of the New York City newspapers and he is not a union man, he never was. He says he is an accomplished printer. He would go down to Big Six headquarters and say, "I wish to be a member of your union so I can work" and they would investigate him, I don't know to what degree, I understand in other matters than just his qualifications as a printer, and when they were satisfied on other things they would then send him to the school to take an examination and if he passed it he then would be given a card in the local union; but anybody from the outside with a traveling card merely would walk in and deposit his present card with Big Six and could bring it up and put it on our slip board.

• • •

[3966] • • • Q. Now, I believe you testified that this New York commercial agreement was presented by the union on March 23rd, was it not?

A. That is right, sir.

Q. And you understood that this was a proposal for a contract for a fixed term did you not?

A. No. Somebody asked me about that and I couldn't say "Yes" to that because I think I testified that the agreement between the Employing Printers in New York and

the union was [3967] a bifurcated proposition and came in two lumps and this was the first one and you had to have the other one in there and it was in the other one that the period of the term came.

Q. Well, in any event you knew on March 19th Local 6 had entered into commitments which would allow a contract for a fixed term, did you not?

A. On March 19th?

Q. Yes.

A. What is the significance of March 19th?

Q. I am referring to the statements which appear in the record as Board's exhibit 95 and the statements which were attached thereto on the part of Mr. Taylor, Mr. Randolph and others.

A. Does your date mean that this was given out on March 19th?

Q. That is correct, is it not, Mr. Mapel?

Mr. Hanson: March 18th.

The Witness: Well, around about that time. You just disturbed me a little on March 19th, that was the only thing.

Q. (By Mr. Van Arkel) Well, whether it was March 18th or 19th it was before the 23rd in any event?

A. It was before the 23rd.

Q. And at that time you were aware of the statement in Mr. Taylor's release that this would be a contract for a fixed term, as has been customary in the industry, isn't that [3968] correct?

A. Wait a minute. I was aware of the fact that he expressed the belief that a fixed term contract would result from this so-called formula.

Q. Now, when the union presented its proposal on March 23rd was there any discussion of duration at that time?

A. You mean between us and the union?

Q. Yes.

A. No.

Q. You did not ask the question whether or not this would be subject to a sixty day cancellation clause?

A. I don't recall.

Q. The union didn't say anything as to whether or not they desired a sixty day cancellation clause?

A. No. You see, the injunction had not come down and the union still was under the orders of Indianapolis.

Q. The proposal which was presented to you had no sixty day cancellation clause, did it?

A. You mean on March 23rd?

Q. Yes.

A. Well, just what you see here as exhibit 95.

Q. Did they present it in exactly the words in which it appears here?

A. Yes, sir, they handed back to us the mimeographed copy which we gave to them at the meeting immediately prior [3969] to this one.

Q. Well, did you comment on the significance of the absence of any sixty day cancellation clause on the 23rd of March?

A. No. You see, this was not given to us as a proposal for a full contract, Mr. Van Arkel. This was given to us by the union as something which had the stamp of Randolph's approval and which apparently had been satisfactory to one group of employers in New York City and I presume the union gave it to us with the belief that perhaps we also would go along with it and then they could get down to talking economic factors.

Q. I believe you have already testified, in any event, that you appreciated the significance of the New York commercial agreement and that the statement that was presented to you on March 23rd was that it opened the way for a contract not containing a sixty day cancellation clause?

A. I am willing to say we appreciated it if you understand that "appreciating" means realize the full significance.

Q. Now, in the tentative agreement which was finally arrived at you included the so-called laws clause, did you not, Mr. Mapel?

A. We included the so-called laws clause.

Q. In substantially the form in which the union had presented it in Form P6A?

[3970] A. No—now, wait a minute, Mr. Van Arkel. The union had never presented Form P6A.

Q. Very good then. You did, however, consent to include in the agreement the clause, "It is understood and agreed that the general laws of the ITU in effect January 1, 1948 not in conflict with this contract or with Federal or state law shall govern relations between the parties on condi-

tions not specifically enumerated herein", is that correct? I direct your attention to Board's exhibit 102, Mr. Mapel, page 2.

A. If you were reading from that, that is what I was looking for and the answer is yes.

Q. Now, I believe you previously testified that you considered that clause to be illegal, is that true?

A. No, no. We testified, or I testified that you may get yourself snarled up in illegality if you accepted this clause without so tightening up your jurdisdictional provision that the union claim for varitypers might not be in vogue.

Q. Well, in any event any latent illegality you felt was cleared up by straightening up the question of varitypers, is that correct?

A. No, sir, by tightening up the jurisdictional provision so as to forbid recognition of varitypers.

Q. Now, I take it, Mr. Mapel, that your views with respect to varitypers were based on practical grounds, were they not?

• • •

[3971] • • • Trial Examiner Leff: Well, I take it Mr. Van Arkel means were your views based upon practical grounds or upon legal considerations?

The Witness: On both.

• • •

[3974] • • • Q. In any event if you had no strike that would have eliminated the threat of varitypers as a strike breaking force?

A. If you will just let me say I cannot agree with this "strike breaking" term, I would say that if we had arrived at a contract with them we would have continued the operator process that we have had for years in so far as linotypers and that sort of thing.

Q. In that event you probably would have had no further use for the varitypers.

A. We would have had no use for the substitute composing room, this substitute operation.

Q. (By Mr. Van Arkel) Now, I believe you stated that either party could cancel the agreement in the event there were non-compliance with the decision of the joint standing committee?

A. Well, we said—I think I testified we said this was [3975] bad and we pointed out that this thing was not ap-

plicable to us, that there was no concern on the part of the union on this thing with us because we had never failed, not even once, in the history of our relations with this or any other union to live up to the award of an arbitrator no matter how adverse it might be to our interests.

Q. Were you informed or did you say to the union that you considered this clause to be illegal?

A. I can't remember that we said we considered it illegal. I think that we said that it was bad.

Q. But on grounds other than legal grounds?

A. Well, you go back to an old adage. You don't have to eat all of an egg to tell that it is rotten and when we saw how rotten this was from a practical point of view I am inclined to believe that we did not find it necessary to go into the legality of it.

Q. Do I take it from your answer that you did not receive any specific advice or did not express to the union any opinion that this clause was illegal?

A. I have to say I don't remember and then I think I do remember testifying to that effect. Consequently, I think, if it is all right with you, I will just stand on what I did say the other day.

Q. Well, as I recall it, you stated that you objected to it on the ground that this allowed either party to cancel the [3976] agreement in the event there were failures to live up to the award of a joint standing committee. Now, I was trying to find out if that was the only reason which you had for objecting to it and, if that was the only reason, whether that was on practical grounds or on legal grounds?

A. Certainly there are enough practical grounds in there for us to object to.

Q. Do I take it from that then that you did not object to it on legal grounds?

A. I am just not sure of the rest of the thing. I can't recall. It seems that I testified the other day that we were told that it was bad,—or, rather, that we told them it was bad and we pointed out that it was something that came from two or three episodes in the history of the commercial employers, where the commercial association had to call one or more of its members in and threaten some sort of action against them because they refused to abide by an arbitration award and it was well recognized right there in the room that such a thing never came with us.

Q. Now, I would like to direct your attention to the

clause immediately before that, Mr. Mapel, dealing with picket lines. I believe you stated that you objected to its inclusion in the commercial agreement because they had no mailers, is that correct?

A. Well, we objected to the inclusion of it in our contract [3977] because the inclusion of it would make it possible for our composing rooms to be shut down because of a dispute with a sister local of the International Typographical Union rather than because of a dispute with the New York Typographical Union No. 6.

Q. Were you informed or did you tell the union that this clause was illegal?

A. I think we did not tell them it was illegal.

Q. Were you advised with respect to its legality?

A. I think that any advice we had on it went no farther than the very practical fact, as I testified the other day, that our printers' contract matured on the 31st day of March and our mailers' contract matured on the 6th day of May and we well might be finding ourselves in the predicament that if we were to agree to this with the printers and then come along and get in a squabble with the mailers and that it could be either at the local level or dictated from up above in a manner that would result in composing room troubles for us.

Q. But you were not advised that there was anything in the Taft-Hartley law which would require you to compel your employes to cross a picket line, were you?

A. I think we were not advised to say to the union that we objected to this because it was violative of the Taft-Hartley Act.

* * *

[3979] * * * *Redirect Examination.*

Q. (By Mr. Sinsheimer) Did you testify that the publishers individually were or were not signatories to the contracts with union No. 6, that is, in addition to the Association?

A. Yes. The signature sheet, Mr. Sinsheimer, shows the Publishers Association and that is signed usually by Mr. Cullen, the chairman of the Association, and occasionally by me in Mr. Cullen's absence and then it is signed also by all of the members for whom the agency contract is drawn.

Q. With respect to composing room contracts have they been underwritten or approved during recent years?

A. Yes. The existing contract, the one which matured on the 31st, was underwritten by Mr. Randolph and when I say "underwritten" I am using the term that we always use. Its predecessor was and to the best of my recollection all composing room contracts, certainly for the last seven years, have been underwritten by the International.

* * *

[3985] * * * Q. (By Mr. Sinsheimer) With regard to nonunion men in the mail room, I believe you said those persons have been employed for some years pursuant to a contract which provides that if the union is unable to furnish employees, then you can—that is, the Publishers—then you can hire them directly?

A. That is right.

Q. Has the composing room contract ever had such a provision?

A. No.

Q. The composing room contracts have been closed shop contracts?

A. With obligation on the part of the situation holder to cover the job, if he is absent.

Q. In other words, that is the case where it provides a substitute?

A. That is right. In theory.

Q. That is normally handled by checking the next man off the slip board, isn't it?

A. No, I understand the man can pick anyone he chooses.

Q. Now, as to these— Strike that.

Approximately how many nonunion men have been employed in mail rooms?

A. I can't guess on that, except that it is a significant number, particularly on Saturday nights.

Q. Have those persons joined the union?

[3986] A. I think some of them have been taken into the union.

Q. And some have not?

A. Well, some are postal mail clerks, policemen, clerical employees, elsewhere on the newspaper, who picked up that night's work as mailers.

Q. Have any of them been hired on a permanent basis?

A. No, not to my knowledge. They wouldn't be. They couldn't be, you see.

Q. In other words, these nonunion people are people who are extra help?

A. That is right.
Q. Normally working on Saturday night?
A. Or some other night, yes.
Q. And do any of them work the full normal workweek?
A. Well, in the mail room?
Q. Yes.
A. I doubt it, although I might well be wrong. There might be some who work the full week.
Q. You also, I believe, testified that there are some veritypers who are permanent employees, is that correct?
A. Well, there are some permanent employees who oprate veritypers.
Q. Yes.
A. That is correct.
Q. And in one newspaper they are represented by a different [3987] contract?
A. Yes, that is right. In the Herald Tribune they are covered by the Guild contract.
Trial Examiner Leff: Is that the stand-by crew?
The Witness: No. You see, they were covered by the material in the advertising department, or circulation promotion, or anything where the management determined to use a varitype product.
Q. Do they normally have anything to do with getting out the newspaper?
A. No.
Q. In addition to them, you have this fairly large number of stand-by persons who are prepared to operate varitype machines, is that correct?
Q. You testified concerning whether there were—Strike that.
You testified concerning expressions that you had re-
[3988] A. Yes.
Guild contract before there was any such thing as a stand-by crew.
Q. (By Mr. Sinsheimer) That is a smaller number of varitypers?
A. That is right.
Q. That is, of persons working on varitype machines?
A. That is right.
Q. Those people do what kind of work?
A. They operate varitype machines.
Q. All right. For what purpose?
A. Well, they might operate them for some promotional

ceived from publishers with respect to whether many union men over the years had demonstrated—and I wasn't clear whether your words were competency or incompetency.

A. I have heard time after time after time complaints from management representatives that linotype operators are not turning out the production required by the competency laws in the contract.

* * *

[3989] * * * Q. (By Mr. Hanson) Mr. Mapel, you are familiar, are you not, with the fact that the Government Printing Office over a period of years has had union men and nonunion men working side by side?

A. I am.

Q. So that the statement that it has been a tradition in the industry that union men never will work with nonunion men isn't correct, as far as that institution is concerned, is it?

A. Well, not as far as that one is concerned.

Q. All right. Now taking the competency rule that was proposed in New York, that would give to a union card holder recognition of the competency rule. Let us assume that two men that had worked side by side in the Government Printing Office for twenty years should file applications for a job in New York. One of them is a union card holder; the other is a nonunion card holder—I mean is a nonunion member, and not a card holder.

[3990] A. Yes.

Q. Do you think there would be any greater or less evidence of competency merely because the one man had a union card?

A. No. We discussed that thoroughly with the union—that particular problem with relationship to the Government Printing Office.

Q. All right. Let's go a step further.

Mr. Van Arkel: If the Examiner please, I have no objection to Mr. Mapel testifying as to what was said—well, I have objection, which I have noted, but I note an additional one. Mr. Hanson's question was far from that—a hypothetical question as to what his opinion might be about a conclusion if a certain set of facts came to pass.

I move the answer be stricken, and the witness be confined to stating what was said during negotiations.

Trial Examiner Leff: Motion denied.

Q. (By Mr. Hanson) Was there anything said about the matter during negotiations, Mr. Mapel?

A. Yes.

Q. What was it?

A. We were talking about this Section 3—no, Section 4 of our hiring proposal, and we proposed that a man could be hired if there was no question in the mind of the foreman concerning his competency, and the union said, "Well, all you have to do is just put in that anybody with a union card need not be [3991] subject to question on competency, and you can test the competency of the others."

At that time I happened to be doing the talking, and I said, "Well, wait a minute. Let me give you a situation which well might come up to show you why what you are talking about would cause us to be indulging in preferential hiring." So then I hypothecated what Mr. Lane called the peas in the pod story.

That is the story of John Jones, who would come into the composing room of one of our newspapers, and say, "I note you need linotype operators. I am here and I would like to go to work. I am a union man, and I am available." And the foreman would say, "Well, where have you been working?" And the man would say, "Well, I have been working down at the Government Printing Office for the last two years, setting agate on a linotype machine." And the foreman would then say, "All right, go to work."

Just about that time somebody would tap the foreman on the shoulder and say, "I am Fred French. I also am a linotype operator, and I would like to go to work too. The only difference is that I do not have a union card." And the foreman would then say, "Well, what do you mean? Where have you worked?" And the man would say, "Well, just as Jones, who just now talked to you, I have been working at the Government Printing Office. The only difference is that I have been [3992] setting agate on the linotype machine next to the one occupied by Jones for the last two years, only I have been setting agate down there for twenty-three years."

And I said to the union, "Under your proposal the foreman then would have to say to the second man, "Now, you go on over to the school and have your competency tested." And then I said, "And as far as the publishers are concerned, that would be discrimination in hiring, based entirely on membership in the union, and we couldn't go for that."

Now, all that happened at the negotiating meeting.

Q. Now, do you know whether or not proof readers hold journeyman cards?

A. In New York City they do.

Q. Do you think journeyman's cards in the case of a proof reader is evidence of competency as in the case of the linotype operator?

A. It might not be.

Q. Does it specify, when a journeyman's card is issued, whether the man is a proof reader, a linotype operator, a hand setter, or what?

A. No. Take a situation where the union goes in and unionizes a plant; and as a result of that the collective bargaining agreement is worked out with the typographical union, and all of the members of the plant are taken into the union. Now, you might have somebody who under that type of a set-up [3993] never had been anything but a proof reader, and might be a very excellent proof reader, and then might be taken into the union. There would not be any evidence of competency there, as far as other phases of the trade are concerned.

Trial Examiner Leff: I understand that a union man should not be presumptively—should not presumptively be considered competent unless a nonunion man with the same background was also considered competent, isn't that correct?

The Witness: We said that would relieve us of indulging in preferential hiring.

Trial Examiner Leff: That was ultimately resolved—that difference of view between you and the union?

The Witness: It was, yes.

Trial Examiner Leff: The union made some concession before that tentative agreement was written up?

The Witness: That is right, and then Mr. Randolph said "No soap".

Trial Examiner Leff: Did he say "No soap" to that?

The Witness: Yes.

Trial Examiner Leff: Look at 434 and show me where that appears.

Mr. Van Arkel: Of which exhibit, Mr. Examiner?

Trial Examiner Leff: Well, I have Exhibit 92. It may also be in another exhibit.

The Witness: Now, will you tell me just I am supposed to [3994] demonstrate?

Trial Examiner Leff: In the agreement that was tentatively reached between you and the local—

The Witness: Yes?

Trial Examiner Leff: —was anything said in there that a person holding a union card was to be considered presumptively competent to perform work?

The Witness: No.

Mr. Hanson: What page on this exhibit are you looking at, Mr. Examiner?

Trial Examiner Leff: I am looking at clause 84, Mr. Hanson.

Mr. Hanson: Clause 84?

Trial Examiner Leff: Yes, I don't think the pages are numbered.

Mr. Hanson: All right. Thank you.

Trial Examiner Leff: You may proceed, Mr. Hanson.

Q. (By Mr. Hanson) Will you please turn to Board's Exhibit No. 90-B?

A. 90-B?

Q. Yes.

A. "B" as in "boy"?

Q. That is right.

A. Yes, sir.

Trial Examiner Leff: That is the Victory letter.

[3995] Mr. Hanson: That is the Victory letter.

Q. (By Mr. Hanson) Now, turn to page three.

A. Yes, sir.

Q. That exhibit indicates that the Executive Council stated that the fourth rule on employment, discharge and priority should be changed, did it not?

A. Yes, sir.

Q. And that appears in Board's Exhibit 92, in the reprint of Section 84, as tentatively agreed to, and Section 84 as proposed to be modified by the Executive Council?

A. That is right.

Q. Now, is your contract, or was your contract which expired on March 31 underwritten by the international president?

A. It was.

Q. Do you have the contract before you?

A. Do I have what?

Q. That contract before you? It is one of the exhibits in the case.

A. Yes, I do.

Q. Will you state what the underwriting consists of?

A. Well, it doesn't show in here.

Q. Well, Mr. Mapel, Mr. Randolph, when he was on the stand, stated that prior to the enactment of the Labor-Management Relations Act of 1947, when he was underwriting the contract, he used this phraseology—that is, for those contracts he [3996] underwrote in 1947, and I quote:

> "This agreement is approved as being in compliance with the laws of the international typographical union, and the undersigned, on behalf of the executive council of the international typographical union hereby pledges its full authority to the fulfillment thereof."

A. Yes, sir.

Q. Now, did that statement or one substantially similar thereto appear on the executed agreement?

A. It is my memory that it was either that or substantially that.

Q. Very well. Now, who negotiated the agreement between Local 6 and the New York Publishers in 1947?

A. Well, Mr. Randolph finally came in and told us what the agreement would be.

Q. And you accepted his statement as to what it would be, and entered into the agreement, did you not?

* * *

[3997] * * * Q. (By Mr. Hanson) You had reached a stalemate with the [3998] local union before he was called in, had you not?

A. The local union called him in.

Q. After the agreement was agreed to and underwritten, were there any differences between you and the local union?

A. There were.

Q. How did you dispose of those differences?

A. We finally took them through the grievance machinery of the contract.

Q. Did the contract provide for grievance machinery for the adjustment of those differences?

A. It did.

Q. Previously, what, if anything, had you done?

A. Well, shortly after the contract got underway we began to get all sorts of grievances filed, letters from the local union, and they piled up and up in a hurry over a short period of time until the union finally filed one master grievance, so to speak, with maybe twenty or thirty

parts to it, all of them stemming from the language of the contract which had resulted from our meeting with Mr. Randolph.

We met informally with the union and told them our interpretation of the contract, and told them what Mr. Randolph had said to us was his interpretation of it.

• • •

[4000] • • • Q. Mr. Van Arkel asked you about certain statements which [4001] were made by Don H. Taylor at the time of the announcement at the mayor's office of the basis for an agreement between Local 6 and the Printers League Section of the New York Employing Printers.

Who was Mr. Taylor? Who is he?

A. He is the executive vice president of the Employing Printers Association.

Q. He is not the Mr. Taylor who is first vice president of the International Typographical Union?

A. Oh, no. That is Larry Taylor.

• • •

[4018] • • • CHARLES C. LANE was thereupon called as a witness, and, having been first duly sworn, was examined and testified as follows:

Trial Examiner Leff: What is your full name?

The Witness: Charles C. Lane.

Trial Examiner Leff: Where do you live?

The Witness: New York City.

• • •

[4019] • • • Q. (By Mr. Sinsheimer) What is your position, Mr. Lane?

A. I am assistant business manager of the New York Times.

Q. And as such do you participate in negotiations with Local 6?

A. I do.

Q. In what capacity?

A. Well, I have been chairman of the negotiating committee for a good many years.

Q. For about how many years?

A. Well, I have been on the committee about twenty-five, and I think I have been chairman about fifteen.

[4020] Q. And you participated in those negotiations during all that period?

A. I did.

Q. Were you present at the negotiations that commenced in February of this year?

A. I was.

• • •

[4021] • • • Q. (By Mr. Sinsheimer) Were you present at the meeting of May 7 with Mr. Randolph?

A. I was.

Q. In addition to the matter testified to by Mr. Mapel, do you recall anything else that occurred at that meeting Mr. Lane?

A. Well, I am not sure how much Mr. Mapel testified to, but there was a good deal of discussion about the position of the local union, Mr. Randolph having said that he and Elmer Brown would be the representatives at the next meeting.

Mr. Van Arkel: I object to this, Mr. Examiner, on the grounds already stated, and on the additional ground that it is cumulative.

Trial Examiner Leff: Objection overruled.

The Witness: I called his attention to the fact that that had been what had happened the year before, and we had been involved in a number of unnecessary controversies because no one of the local people had been present during the final negotiations.

He then said it was his business to decide who represented the local, and I said, "I am not trying to tell you who represents the local. I am merely asking that there should be representation from the local." He again refused, and I [4022] said we felt very strongly about it. He said, "Does that mean that you would be unwilling to meet us unless there were representatives of the local present?" And I said it might. I then asked for a caucus because I wanted to find out how the other members of the committee felt.

In the caucus that followed they all agreed with me that we should press for inclusion of representation from the local level.

I asked Mr. Randolph what was the desire of the local, and he said in effect, "It doesn't matter what their desires are. I am deciding who is going to represent the local. There is a line down the middle of the table. You can do

what you want on your side of the line, and I will do what I want on mine."

I said, "I remember hearing you say in Washington that you never superseded the local. I think you use a different dictionary from mine, because to my way of thinking, what you are doing now is superseding the local."

There was some exchange of that sort, and the matter was left with the understanding that he could call us on Monday to ascertain whether or not a meeting with the publishers committee could be arranged.

Q. Had you participated in the negotiations in 1947, Mr. Lane?

A. I had.

[4023] Mr. Van Arkel: Mr. Examiner, I object to this as being irrelevant in addition to the other grounds.

Trial Examiner Leff: Objection overruled.

Q. (By Mr. Sinsheimer) Did you participate in certain meetings with Mr. Randolph in 1947?

A. I did.

Q. Was the local present in those meetings?

A. They were not.

Q. Was there any discussion about the presence of the local?

A. We didn't have quite the same insistence then respecting the presence of the local because we hadn't had the experience we had that year. But when we were getting to the concluding phases of the negotiations, we asked about the local, and if the local understood the situation, and Mr. Randolph in effect said that he would explain it to the local, and the local would go on, because if they didn't, the international executive council would give them no support.

I might add that at that day—the last day—he came in and said, "Well, my train leaves at eleven o'clock tomorrow. The wages will be so-and-so. The conditions will be such-and-such. If you want to reach me before I go, all right. Otherwise, I will leave town at eleven o'clock."

Q. That was in the 1947 negotiations?

A. That was in the 1947 negotiations.

Q. What experience did you have with the agreement during [4024] 1947 with respect to any grievance matters?

• • •

The Witness: Yes, we had a number of grievances, twenty or thirty, I should say, between the first two or

three weeks following the signing of the contract. They hinged very largely on the intent of the parties and on the meaning of certain words used in the document.

We explained it to the local, and they were a little skeptical since none of the local members had participated in the final meetings.

We then asked Mr. Randolph if he would come on and just substantiate what we were telling the local, and he said that it was not his function to adjudicate disputes when machinery [4025] for handling them was provided in the contract. We told him we didn't want him to do that, but merely to testify—become a witness—to give us the benefit of his supporting statement. He refused to appear. We went through the usual grievance procedure, and I think the publishers won their contention in every case.

Q. (By Mr. Sinsheimer) Were the problems arising out of those grievances one of the reasons why you wanted the local present?

A. That is correct.

* * *

[4027] * * * Q. (By Mr. Sinsheimer) In any prior contracts between the publishers and Local 6 have there been any clauses relating to rules or laws of the publishers?

A. Yes, there has been such a clause for many years. I looked through some of the contracts and I find the first one, in the contract dated January 1, 1924, the clause being—the significant sentence in the clause being:

> "Each party, however, recognizes the right of the other to adopt laws and regulations of any character for the government of its own members."

And that sentence appears in all contracts from January 1, 1924 until November 1946—I mean March 1946.

Q. That is, that particular clause appears in all the contracts up to the contract of November 12, 1945 to March 31, 1947?

A. That is right.

Q. Is that 1946 or 1947?

A. November 1945 to March 31, 1947.

Q. Now, that contract ending March 31, 1947 then, was the last one to have that clause in it, is that right?

A. That is right. That is the first one without the clause. The last one was the one that expired on March

31, 1946; that is the last one where the clause appears. That is the clause I just read:

[4028] "Each party, however, recognizes the right of the other to adopt laws and regulations of any character for the government of its own members."

Q. So we are clear, the last one having it in it is the one expiring March 31, 1946?

A. That is right; and there is no reference to it at all in the one you have in your hand.

Q. That is the one expiring March 31, 1947?

A. That is right.

Q. And that is the first one not to have it in?

A. That is right.

Q. What has the position of the publishers been during the period which you have been negotiating with respect to the matter of bogus?

A. Well, we have consistently urged the elimination of bogus entirely as a wasteful and unnecessary practice.

Q. And that is since when? Since when have you taken that position?

A. As long as I can recall it—for the last twenty years, I would say.

Q. What has the Union's position been?

A. They have been equally, if not more, insistent that it be retained, saying that their international law made it impossible for them to negotiate a contract with the complete elimination of bogus.

[4029] Q. During that period, what has been the situation or practice which would bring an international officer in to represent the union?

A. When the two parties are deadlocked and unable to reach an agreement, under the international union proceedings, the local sends for the international officers.

Q. And at that time the international officers come in and you take the matter up with them?

A. Yes.

Q. Is that correct?

A. That is correct.

• • •

Trial Examiner Leff: I have a couple of questions to ask on bogus.

The Witness: Yes.

[4030] Q. (By Trial Examiner Leff) Let's start off with local advertising. Suppose mats are prepared out-

side the New York Times composing room, and then they are submitted to the New York Times composing room and reproductions made there. Is the rate to the advertiser the same as if the matter had been produced originally in the New York Times?

A. That is correct.

Q. How about National advertising?

A. National advertising does not have to be reset as bogus.

Q. All right. Take national advertising. Suppose a mat comes in from the outside. You have a regular advertising rate, I presume, have you not?

A. That is correct.

Q. Now, suppose the matter is originally produced inside the New York Times composing room, would the rate be any greater?

A. The rate would be the same, whether we receive a mat or a plate or whether we set it ourselves, and there are a number of borderline classifications that are neither local law nor national. For instance, amusements and resorts, where we are required to reproduce.

Trial Examiner Leff: Any further questions of this witness?

Mr. Hanson: Just a couple.

[4031] Q. (By Mr. Hanson) On this matter on which you are required to reproduce, Mr. Lane, do you use any of the reproduced matter after it has been reproduced?

A. It is proofread and corrected and thrown away.

Q. And the reproduced matter is thrown away as well as the type used to reproduce it?

A. That is correct.

* * *

Trial Examiner Leff: I would like to have a general idea of the form the discussion took when you discussed the bogus clause during the most recent negotiation. Can you give me a summary of what the union position was—what position the union took and what position the publishers took?

[4032] The Witness: You mean when Mr. Randolph appeared on the scene?

Trial Examiner Leff: Yes.

The Witness: Because it was taken up with him. I reminded him there that he had testified in Washington that the last time he heard of bogus in the way of a complaint

was in 1923, and yet we had asked for its elimination every year since then, and he had been in on some of those contracts and their negotiation.

Trial Examiner Leff: I believe you stated that you asked for its elimination because you regarded it as a wasteful and unnecessary practice.

The Witness: That is correct.

Trial Examiner Leff: You took that position this year as well as in the past years?

The Witness: Yes.

Trial Examiner Leff: What was the union's answer? What did the union say to support the bogus clause?

The Witness: The chief line of support was that it was written into their international law, and they were handicapped—it was impossible for them to get it out. That was their first contention.

Their second position was that their members felt so strongly on the matter of bogus that they felt that no contract carrying a provision for the elimination of bogus or [4033]a contract that was silent on bogus would be ratified by the local membership, and the points they made before that it helped to spread the work, although we countered that point with the statement that the reproduction of four days did not spread it very much, and that forces could be set up without bogus in a way that would spread the work in similar fashion.

We suggested that it had a money value to us, and that we might be able to make a greater money offer for a contract that included no bogus than for a contract with bogus.

Trial Examiner Leff: What did the union say to that, Mr. Lane?

The Witness: They said in spite of that they could not and would not accept or recommend a provision for the complete elimination of bogus.

Trial Examiner Leff: Was there anything in particular which led you to drop your demand for the exclusion of bogus before the tentative agreement was reached?

The Witness: Well, as a matter of fact the point was we wanted a contract, and we recognized the obstacle that the union committee faced with their international law and with their membership; and though it was repugnant to us to have such a paragraph in the contract, and although, as I told Mr. Randolph in one of our sessions in New York,

that was one reason why the publishers did not make the final [4034] proposal, because we knew the final proposal would have to have something in it on bogus. But in the interest of settling the matter and getting forward, we accepted, reluctantly, the local union's proposal that the bogus paragraph be included; but that the time for setting bogus be extended from four days to seven.

Trial Examiner Leff: Was your acquiescence in including the bogus clause in your tentative agreement traded off for anything else?

The Witness: I would say not. No.

Trial Examiner Leff: Any further questions?

Mr. Hanson: Yes.

Q. (By Mr. Hanson) Is the bogus set within the time specified in the contract, as a rule?

A. No, it is not. The effort is made to do so, and some shops keep pretty close to the restriction. But in the present manpower situation, it is impossible to get enough journeymen at straight time rates to set the bogus.

Q. What happens to it if it isn't set within the time specified?

A. Well, it is set as soon as possible.

Q. Notwithstanding the provision that it must be set within four days? Am I to understand if the union does not have the men to set it, the union still claims the right to have it set at a later time?

[4035] A. That is correct.

Mr. Hanson: That is all.

Cross Examination by Mr. Van Arkel.

Q. By that you mean, Mr. Lane, the union has not insisted on enforcing the contract provision requiring resetting within a certain time if they have been unable to supply sufficient men to do it at the straight time rate, is that correct?

A. Well, that has happened in a number of cases. Whether that is universal or not, I do not know.

Q. Do you know of any cases where that has not been true, Mr. Lane?

A. No, I do not.

Q. There is one matter I would just like to ask you about, Mr. Lane.

Trial Examiner Leff: Before you go into that, may I ask one other question?

Your contract expired on March 31, did it not?

The Witness: That is correct.

Trial Examiner Leff: After March 31 was there any obligation on the part of the New York Publishers to continue the bogus?

Mr. Sinsheimer: I will object to the Examiner's question.

Trial Examiner Leff: All right. I will withdraw the last question.

[4036] Let me ask you this: Did you continue the bogus practice after March 31?

The Witness: Yes, we did, because we continued the contract. The contract did not really expire, you understand. It matured.

Trial Examiner Leff: Yes.

The Witness: And the contract contains a provision that it will be extended until further action is authorized by the union or by the publishers association, so we have adhered to all the provisions of the contract for this period since.

Trial Examiner Leff: Well, there have been some exceptions to that, have there not? Have you adhered, for example, to the closed shop provision?

The Witness: We have.

Trial Examiner Leff: You have?

The Witness: Well, just let me rephrase that. I suppose legally we have no right to extend the closed shop provision. So far as I know, no union man has been refused employment.

Trial Examiner Leff: Did you consider yourself obligated after March 31 to continue the closed shop provision?

The Witness: I would think not.

Trial Examiner Leff: Did you consider yourself obligated after March 31 to continue the reproduction provision?

The Witness: We did.

* * *

[4055] FREDERICK NEAL MURPHY was thereupon called as a witness herein and, having been first duly sworn, was examined and testified as follows:

Direct Examinaiion by Mr. Martin.

Q. What is your full name?

A. Frederick Neal Murphy.

Q. Where do you live, Mr. Murphy?
A. Rochester, New York.
Q. By whom are you employed?
A. The Gannett Company.
Q. What is your position?
A. Business Manager of the Democrat and Chronicle.
Q. How many papers does the Gannett Company operate in Rochester?
A. Two.
Q. Will you state their names?
A. The Times Union and the Democrat and Chronicle.
Q. How long have you held your present position?
A. Eleven years.
Q. What was your position before that?
A. Advertising manager of the Times Union.
Q. Now, in connection with your duties at these two papers have you in the past sat in on negotiations with the Typographical local in Rochester?
A. I have.
[4056] Q. What local do you have negotiations with?
A. No. 15.
Q. When, as far as your recollection goes, did you first sit in on any of those negotiations?
A. Ten years ago.
Q. At various times during the negotiations in the past has the problem with reference to reproduction matter come up in negotiations?
A. At every negotiation.
Q. What has been the position of the publisher at these negotiations with respect to reproduction?
A. Why, in every case we pointed out it was pure economic waste and asked to have it discontinued.
Q. What was the position of the union?
A. They said it was part of their ITU laws and they couldn't do a thing about it.
Q. When was your last contract signed with the local in Rochester?
A. It was signed in February 1947 and expired February 8, 1948.
Q. Do you have a copy of that contract with you?
A. Yes, I have.
Mr. Martin: Will you please mark this document Board's Exhibit No. 110 for identification?

[4057] (The document above referred to was thereupon marked Board's Exhibit No. 110 for identification.)

Q. (By Mr. Martin) Handing you a document marked Board's Exhibit 110, headed, "Agreement entered into between Rochester Daily Newspapers and Rochester Typographical Union No. 15", I will ask you what that is, Mr. Murphy?

A. Why, this is a copy of the last contract we signed with the Typographical Union.

Q. Does that have a clause with reference to reproduction in it?

A. It does.

Q. Will you tell us the section number in the contract?

A. It is Section 13.

Trial Examiner Leff: When did that contract expire?

The Witness: It expired February 7th. I said 8th. It is renewable February 8th.

Q. (By Mr. Martin) Have similar provisions with respect to bogus been in your previous contracts?

A. Every one.

Q. Were they all exactly the same, as far as you know, up to that time in recent years?

A. Well, substantially. There might have been a change in the time limit.

Q. What is the time limit within which bogus matter is to be reproduced in that contract?

[4058] A. Three weeks.

Q. Now, directing your attention to 1946, did you have any problem arise in Rochester with respect to bogus at that time?

A. Why, we have had a continually growing problem on reproduction through the fact that it keeps piling up and because the union can't furnish men at straight time rates the back log keeps mounting and we are being required to set it at much higher rates of pay.

Trial Examiner Leff: Are you required to hire men at overtime rates to set reproduction if the union cannot supply men at straight time rates?

The Witness: No, we are not required to set it at overtime. We are required to set it at straight time when men are available. That is why it is piling up.

Trial Examiner Leff: If men are not available it simply means that it keeps piling up?

The Witness: It keeps piling up, yes.

Q. (By Mr. Martin) Now, returning again to 1946, in August, did you have any problem arise with respect to your reproduction situation that you took up with the local at that time?

A. Yes, we did. We granted the union a twenty-seven and a half per cent increase in scale and asked that they cancel twenty-seven and a half per cent of the bogus as an adjustment [4059] on a new scale. The local refused to do anything about it. We took it up with the International in the person of Mr. Elmer Brown, vice-president. He stated that it was purely a matter for the local union and management to thresh out. The local union maintained that reproduction was not arbitrable and refused to do anything about it.

Q. Now, directing your attention to 1947 did you have any further problem with respect to bogus arise in connection with your dealings with the local union?

A. Yes, we did.

Q. Will you state what that was?

A. Why, we managed to get our reproduction cleared up, our Times Union reproduction cleared up and then we got the Times Union where we had some time at straight time available to set about 1600 inches of Democrat and Chronicle reproduction, after which the local union suddenly made a ruling that each chapel had to set its own bogus day and night.

Q. May I just interrupt there a moment, Mr. Murphy? How many chapels do you have in Rochester in the composing room?

A. Two, day and night; Democrat and Chronicle and Times Union.

Q. How many composing rooms do you have?

A. One.

Q. The two papers use the same composing room, is that correct?

[4060] A. That is right.

Q. Now, during the past number of years how has the composing room operated with respect to the handling of copy to be set?

A. Why, always the Times Union has set Democrat and Chronicle copy and the Democrat has set Times Union copy. There has been an interchange there from the time

we bought the Democrat. There was never a question about which side shall set anything.

Q. Did you ever have any occasion back any number of years ago, as far as you know, to have that matter taken up with the International Union?

A. We certainly did. When we bought the Democrat one of the first things we did was take that matter up with the late president Howard of the ITU and we have a letter on file which he wrote to the—a copy of the letter that is, which he wrote to the local Typographical president at that time making it very clear that with one composing room and two papers under one management there should never be any question at any time of copy being set on the day and night side. In other words, it is the same as one newspaper with one composing room.

Q. And up to the time that you just testified to has that procedure been followed?

A. It has.

[4061] Q. At this time now has there been any question raised concerning the setting of live copy in room or another?

A. Not up to now but that is the thing which concerns us chiefly because if it can be ruled that the day side has got to stick on day copy and the night side on night copy it is a very short step to dividing our whole production in a similar manner.

Q. This position taken by the local union in 1947 that you have detailed was that with respect only to bogus or with respect to live copy also?

A. Just with respect to bogus so far.

Q. Now, ordinarily is bogus handled in any different manner than live copy as far as the actual setting is concerned?

A. Exactly the same. It is set, spaced, proof-read, corrected and thrown away.

Q. (By Trial Examiner Leff) Where do you get your mats?

A. The mats?

Q. Yes,—from other papers?

A. Well, we get them from a lot of sources. Chain store mats usually come from chain store headquarters. If the account has an agency, it may come from the agency, and then it may come from various mat makers direct.

Q. Are there any other newspapers in Rochester?

A. Well, there is a throw away called the Sun.

Q. Any other papers there? No other papers of daily circulation [4062] are there?

A. No.

Q. So when you have to do reproduction work it is because of mats that come from commercial print shops, is that correct?

A. Well, we have to reproduce them because—let us take an example. The A. & P., they send us mats from Buffalo. We use them exactly as it is and then we have to reproduce it.

Trial Examiner Leff: That is all.

Q. (By Mr. Martin) Now, can you tell about when that problem arose in 1947 with the local union with respect to where bogus should be set, by which chapel, what date in 1947?

A. Oh, I can't give you the exact date because it arose in a verbal controversy at the start and we had an exchange of correspondence. I would say early summer of 1947; that is about as near as I can figure it.

Q. Since that time has any bogus for the one paper been set by the chapel for the other paper?

A. No, not since they ordered them to discontinue it.

Q. Did you attempt to negotiate that matter with the local union or take any procedure?

A. We did and finally appealed to the ITU.

Q. What was the decision of the ITU about that?

A. They granted the appeal and told the local union to proceed accordingly.

Q. What do you mean by "proceed accordingly"?

[4063] A. Oh, well, the natural steps through joint standing committee and finally to arbitration.

Q. And is that the present experience on that? Is that the present status of that controversy?

A. Well, it is except for the fact that the local union has kept postponing it. The last postponement was requested by them on the basis that we would negotiate,—that we were negotiating a contract and they are going to take care of this after the contract might be signed.

Q. Now, coming to the contract negotiations for the current year, did you sit in on those negotiations?

A. I was one of two negotiators.

Q. Now, when the negotiations start, if you can recall?
A. In January.
Q. 1948 is that?
A. 1948.
Q. At that time did the publishers make any proposal to the local union with respect to reproduction?
A. Yes.
Q. Do you have that proposal with you?
A. Well, I have it in my case there. I can—
Q. Could you tell us what that proposal was?
A. I can tell you what it is.
Trial Examiner Leff: Was the proposal in writing?
The Witness: Oh, yes.
[4064] Trial Examiner Leff: I think we had better have the writing.
The Witness: Do you want me to get it out of the case?
Trial Examiner Leff: Please.
Q. (By Mr. Martin) When was that proposal made to the union, do you recall?
A. When was it made?
Q. Yes.
A. Why, it was submitted with our new proposed contract.
Trial Examiner Leff: Is that the first proposal you made to the union?
The Witness: That is right. Now, our proposal was simply this, to take out the last paragraph of the present contract which reads as follows:

> "Inability of the local union to furnish men to reproduce such matter or matrices during the regular hours and within the agreed time limit shall not eliminate such matter from reproduction, which shall be made as soon as local union can furnish help to do the work at straight time."

We requested that that be eliminated and in its place this substituted:

> "Whenever insufficient employes are available to work at straight time rates to perform regular work and reproduce within the required length of time set forth herein, reproduction shall not be required."

[4065] Q. (By Mr. Martin) What was the union's position with respect to the bogus proposal?
A. Well, they wanted the clause renewed as it appears in the 1947 to 1948 contract and also a clarifying letter

incorporated in the contract, a letter which Mr. Davenport, our general manager, gave to the local union a couple of years ago setting up specific cases.

Q. Did the union give you a formal answer of acceptance or rejection with respect to that particular clause?

A. Yes.

Q. What was that?

A. They wouldn't accept it.

Trial Examiner Leff: Do you have the letter?

The Witness: Do you mean the letter with reference to where they wouldn't accept it?

Trial Examiner Leff: Yes.

The Witness: That is all done in negotiation. That wouldn't be in a letter.

Trial Examiner Leff: I thought you said the union gave you a letter.

The Witness: No. I told you the ITU granted our appeal to thresh out the chapel matter.

Q. (By Mr. Martin) Since you made that proposal early in the negotiations have you continued to have negotiations with the local union?

[4066] A. We have.

Q. Has the problem of reproduction been discussed further at any of these meetings?

A. Why, intermittently, yes, it always has at pretty near all our negotiations and about the only thing we are in agreement on is a proposed clause which has yet to be accepted by the International, which reads substantially this way, that if there is a ruling by the highest court on reproduction, such a ruling shall be followed by both parties automatically. In other words, conform to the law of the land.

Q. Did the union give you any reason when they stated they would not accept your proposal, any reason for not accepting it?

A. Which proposal is this?

Q. The proposal you made at your early meetings in February, the one that you read from your written proposal.

A. Why, it is just the same as always. They just laugh it off.

Trial Examiner Leff: Is that the only proposal you made with respect to bogus?

The Witness: In this contract, yes, Well, it has been for this reason: It has become over a period of years a thing that we could do nothing about, so in this contract we proceeded as I have outlined and just simply got that other clause, which protects us in case there is a ruling by [4067] a high court on it.

Trial Examiner Leff: You never proposed in writing the complete elimination of the bogus clause this year, did you?

The Witness: Not in this one, no and I might say that is a good way to never get negotiations started. If we were to submit a proposal eliminating that, we probably wouldn't even get started in negotiations.

Q. (By Mr. Martin) Now, Mr. Murphy, with respect to the operations of your composing room during the past several years what has been the situation with respect to overtime being worked?

A. Well, for the last year we have averaged about three hundred hours a week overtime day and night side.

Q. Have you had sufficient men to man all of your positions?

A. Well, with the overtime, yes.

Q. Without overtime did you have sufficient men?

A. No.

Mr. Martin: Mark these for identification, please.

(The documents above referred to were thereupon marked Board's exhibits Nos. 111-A and 111-B for identification.)

Q. (By Mr. Martin) Handing you a document marked Board's exhibit 111-A, headed, "Democrat and Chronicle reproduction on the hook" and a document marked exhibit 111-B, entitled, "Times Union reproduction on the hook", will you explain [4068] what those sheets show?

A. Those are the number of inches of reproduction which have accumulated since August 22nd or at least over the whole month of August, including August 1947 through May 11th.

Q. Mr. Murphy, in connection with your duties are records kept of the amount of bogus under your supervision and control?

A. Oh, yes.

Q. Did you have this sheet prepared from those records under your supervision and control?

A. We did.

Q. Now, turning to exhibit 111-A will you explain the figure there of inches for August, September, October, November and December? What do those figures represent?

A. Well, that is the amount of bogus we haven't been able to set and still have on the hook.

Q. And the same with respect to 1948, that is the amount for those months?

A. That is right.

Q. That is, for each month?

A. That is right.

Q. Now, do you have information available from your records or did you ever, as to the average amount of work set up by a composing room man?

A. We know very definitely what our average production is per man hour.

[4069] Q. Now, turning to that figure shown on exhibit 111-A, 1305 hours at 2.1066, with the amount $2749.19, will you state how that was arrived at and what it represents?

Well, that is the scale,—in this case it is the night scale, if you are referring to the Democrat and Chronicle, and that is a very accurate estimate of the number of hours required to set that much material, which gives you your figure on the cost.

Q. That is based on the average production per man, is it, the figure that you are using for the number of hours?

A. In this case we took exactly what we paid the man per hour; that is the scale.

Q. What I am trying to get at is how did you arrive at the 1305 hours?

A. Well, we know that the average production is 15 inches per man per hour.

Q. And the same basis was used for the figure down for 1948, is that correct?

A. That is right.

Q. And turning to Board's exhibit 111-B, the same method was used for determining the dollars and cents figures on that exhibit?

A. That is right.

Mr. Martin: I will offer Board's exhibits 111-A and 111-B.

* * *

[4070] * * * Trial Examiner Leff: Objection overruled. Board's exhibits 111-A and 111-B are admitted.

(The documents previously marked for identification Board's exhibits Nos. 111-A and 111-B were received in evidence.)

Trial Examiner Leff: I would like to ask you some questions.

Q. (By Trial Examiner Leff) Do you have any figures showing the total number of man hours you had work performed in the composing room over the same five month periods?

A. We have, yes, sir. I could get all those from our payroll records. I didn't bring them with me.

[4071] Q. How many man hours do you have a month, approximately, in the composing room?

A. I can estimate it for you.

Q. Yes. Will you please? That is, including bogus and everything else.

A. Do you want that in man hours?

Q. How have you got it here? You have it man hours on Board exhibit 111-B.

A. Yes. You want to know how many man hours we employ there a month in the composing room, is that right?

Q. If you please.

A. All right. I would estimate, without having my payroll records here, that on the day and night side we buy well over two hundred thousand man hours a month in the composing room.

Q. So there won't be any confusion, do your figures include both the Times Union and Democrat and Chronicle or just the Times Union?

A. Well, I have them separately and the amount set separately.

Q. When you just gave me your figure, was that just for the Times Union?

A. This was for both papers.

Q. Would it be approximately less for the Times Union?

A. Not ordinarily because the Democrat is a seven day [4072] paper and the Times Union is a six. We usually figure, in checking costs and all that, we figure six-thirteenths to the Times and seven-thirteenths to the Democrat.

Q. And you say it would be about two hundred thousand man hours for both?

A. Over that.

Q. Over that?

A. Roughly over 200,300 and I did not make any allowances for overtime or extra help. I took a normal number of men in regular situations, but you can put down there well over two hundred thousand hours.

Q. And one other thing: About how many inches of advertising matter do you run a month on each paper?

A. How many inches?

Q. Yes.

A. You mean including classified, national or—

Q. Including everything.

A. Well, let's put it this way—

Q. Suppose you do this: I suppose you had better exclude national because you don't set national advertising, do you?

A. No.

Q. Suppose you exclude that.

Mr. Van Arkel: It still has to be made up, Mr. Examiner.

Trial Examiner Leff: What is that?

Mr. Van Arkel: It still has to be made up.

[4073] Trial Examiner Leff: In the composing room?

Mr. Van Arkel: Sure, if it goes in a newspaper it has to be put in a frame, it has to be placed, it has to be locked up.

Trial Examiner Leff: Is that done by compositors, put in the frame by the compositors?

The Witness: Well, your national advertising largely falls to your stereotypers because it is a matter of casting mats and plates. The composing room employes make up copy and insert local ads.

Q. So there won't be any question in the record suppose you give it to us both ways, first excluding national advertising and then including national advertising.

A. You see, we keep our records on advertising in lines, agate lines. You don't want classified, do you?

Q. Yes, I suppose I do.

A. That doesn't enter into it except as far as our volume goes.

Q. Let us have it three ways now. First just local advertising, classfied advertising and national advertising.

A. That is pretty hard to do out of my head. I don't know as I care to try even.

Q. Can you approximate the amount of local advertising inches per month?

A. Well, it will run a million and a half, two million [4074] agate lines a month.

Q. What would that be?

A. In inches that would be, oh, somewhere around a hundred thousand inches.

Q. Is that for both papers together?

A. Each paper.

Q. Each paper would have about a hundred thousand inches of local advertising?

A. Somewhere around in there. It fluctuates, of course, according to seasons and as to how business is. That would be somewhat reasonable, I think, as an estimate.

Q. And how much national advertising, can you estimate that?

A. Oh, 40,000 inches a month I guess.

Q. Each paper?

A. Yes.

Q. And how about classified?

A. Well, let me see. We will run around 136 to, we will say, 140 pages and there are 168 inches to a page. About 241 inches in the Democrat that is. We run all our classified in the Democrat. 241 inches a month.

Trial Examiner Leff: I think that is all.

Q. (By Mr. Martin) How many men do you have in the composing room?

A. Why we employ about 190 men in regular situations day [4075] and night side. I don't recall just exactly how those situations are divided. I think there is a few more on the Times Union.

Q. What would you say would be the average number of men employed per day in the composing room? Would that be higher than 190 or less or what?

A. Well, that 190 is split day and night side. That is about the average number of men. It is somewhere between 175 and 190 day and night side; that is two shifts.

Q. Day and night?

A. Yes.

Q. How many hours do they work a week?

A. Thirty-seven and a half.

Q. Well, if they work thirty-seven and a half hours a week and you have 190 men, wouldn't your figure of 200,000 man hours a month be somewhat off?

A. Did I multiply twice there?

Mr. Van Arkel: Is Mr. Martin impeaching his own witness now?

The Witness: Well, I can be wrong at times. Now I have lost these figures here, I can't find where I figured it. Let us take it over again.

Trial Examiner Leff: Off the record.

(Discussion outside the record.)

Trial Examiner Leff: On the record.

[4076] The Witness: It is around 40,000 a month, isn't it?

Trial Examiner Leff: Let me make a statement for the record.

In response to a question put to the witness by the Trial Examiner the witness stated, after making certain computations, that on the basis of a thirty-seven and a half hour week 200,000 man hours of work would be performed in the composing room in a month. Since making that statement the witness' attention has been directed by other mathematical experts in the room to the fact that his computations were probably in error and that on the basis of the factors mentioned by him the figure should be about 40,000 man hours per month rather than 200,000 man hours per month.

Mr. Van Arkel: I thought his previous testimony was on the number of inches of copy set.

Trial Examiner Leff: No, that was something else.

Mr. Martin: Will you mark these exhibits 111-C and D?

(The documents above referred to were thereupon marked Board's Exhibits Nos. 111-C and 111-D for identification.)

Q. (By Mr. Martin) Handing you what has been marked for identification exhibit 111-C, entitled at the heading, "Democrat and Chronicle, reproduction set between August 1947 and May 14, 1948" and 111-D headed, "Times Union, reproduction set between August 1947 and May 14, 1948," I will ask you what [4077] those are?

A. Why, that is the amount of bogus actually set by each paper during those months.

Q. Were those figures obtained from records under your control and supervision?

A. They were.

Q. And with respect to the hours and the money figures shown on this exhibit was the same method of computation used as shown with respect to Board's exhibits 111-A and B?

A. It was.

Q. Are the actual records kept on the amount of time actually spent on bogus?

A. There are.

Q. In other words, with respect to these, the number of hours shown here, you do have an actual record that during those months that much time was spent on material that was being reproduced, is that correct?

A. That is right.

Mr. Martin: I would like to offer exhibits 111-C and 111-D.

Mr. Van Arkel: The same objection as I made to the previous two exhibits.

Trial Examiner Leff: The same ruling. They are admitted.

(The documents previously marked for identification Board's Exhibits Nos. 111-C and 111-D were received in evidence.)

[4078] Q. (By Mr. Martin) Now, with respect to reproduction at the two papers in Rochester, will you tell us how a piece of material is handled in the composing room?

A. Are you referring to bogus now?

Q. Any matter that may be required to be reproduced under your past contract, how is that handled?

A. Well, a man takes the copy and the lay-out and proceeds exactly as though the ad was being set to go in the paper. It is set and proof-read and corrected and thrown away.

Q. How is a piece of material determined to be matter which is required to be bogused under your procedure?

A. That is specified under the contract.

Q. I mean how is it physically handled there, a piece of material that comes in, a mat or something; that comes into the composing room, doesn't it?

A. Let's see if this answers your question: The chapel chairman brings to our man, who happens to be Mr. Garrity, all the bogus that the union demands be set. Mr. Garrity will go over it and if there is any question he will thresh it out with the chapel chairman.

Q. Then I believe, as you testified, you handle it the same as any other live copy, is that correct?

A. That is right.

Q. In recent months have you or have you not been working overtime in your composing rooms?

[4079] A. An average of three hundred hours weekly.

Q. Would there be any change with respect to the amount of overtime being worked in the event no matter was required to be bogused?

A. No, because all the work is being done on regular production.

Q. At the present time have you been able to actually set bogus to any great extent?

A. Just what you see on the record there.

Q. Now, referring back to exhibits 111-A and 111-B, 111-C and 111-D, do the figures—take the month of December 1947 and the various employees: What is the situation as to the actual amount of material that either was required to be bogused or was bogused during those months? In other words, does the figure for December as to the amount set include all bogus, both required to be set and set, or is it—

A. I thought we had it pretty clear here. I have specified what is still on the hook and what was set during the month.

Q. Just to make the record clear: In other words, would the figure of the amount on the hook, plus the amount that was actually set during that month, cover the entire amount of bogus?

A. That is right. You would have to add both.

Trial Examiner: Oh, I see. I misunderstood your figures on 111-A. When you have it on the hook, these are cumulative figures, so that they add up each month?

A. When we say "on the hook" we mean a back log of bogus that is still waiting to be reproduced. This we have actually reproduced on top of this.

Q. How can I determine from these exhibits, 111-A, 111-B, 111-C and 111-D how much additional bogus work was either performed or to be performed during any given month?

A. Well, this is all—

Q. In other words, how much bogus came in each month. Is there any way of determining that?

A. It is right on here, the way I was asked to present it, by months since August, when the Taft-Hartley law went into effect.

Q. These are cumulative figures?

A. They are separated by months.

Q. Oh, I see.

A. Here is the total that is still waiting to be reproduced during 1947. Now, here is the further total waiting to be reproduced during 1948. On top of that we have actually reproduced this.

Q. Let me ask you this so that I can understand this exhibit: I am looking at 111-A. Have you got that before you?

A. I have it right here.

[4081] Q. All right. In August 1947 it shows for August 2975 inches, is that right?

A. That is right.

Q. For September it shows 3317 inches, is that right?

A. That is right.

Q. Now, assuming that between August and September no reproduction work at all was actually performed, how much new reproduction matter would have come in between August and September?

A. Well, so far as the Democrat is concerned you would add those two figures and that would give it to you.

Q. You wouldn't add them. You would substract two thousand—

A. Why not?

Q. No. I want to know between August 31st and September 1st how much new bogus matter would have come in?

A. Oh, you mean just for the month of September then, don't you?

Q. Strike that. Between August 1st and September 1st.

A. Well, it would be 2975 inches.

Q. And then 3317 additional inches came in in September?

A. That is right. You get your total right there of all the months, 19,000.

Q. I see.

A. Now, on top of that you have got to add what you [4082] actually did reproduce to get your total. You would have to take another 8600 inches.

Trial Examiner Leff: I think I understand it thoroughly now, thank you.

Q. (By Mr. Martin) Now, at the present time, Mr. Murphy, how much do you have on the hook, do you know? Just take, for example, the Democrat and Chronicle. How much bogus is on the hook?

A. Well, there is what you see here. I was asked to furnish according to those months and I will guess that there is probably a further back log going back of August 1947 of maybe around 30,000 inches in each paper.

In other words, to try to make this clear, refer to exhibit 111-A and 111-B. You have at the present time on the hook there 19,579 inches, the 13,320 inches and a certain amount which you estimated to be about 30,000?

A. I think it is mostly Democrat. I will say it is about—I think it is about 30,000 inches.

Q. In addition to the two sets of figures you have shown?

A. Some of it goes as far back as 1946.

Q. And that is in addition to the amount that was actually set at the Democrat and Chronicle shown by the figures on Board exhibit 111-C; is that right?

A. That is right.

Q. Now, Mr. Murphy, do the publishers want to reproduce [4083] material?

A. No.

Mr. Van Arkel: I object to that.

Trial Examiner Leff: Sustained. The answer is stricken.

Q. (By Mr. Martin) Mr. Murphy, is there any need to reproduce material?

Mr. Van Arkel: I object to that as calling for a conclusion, Mr. Examiner.

Trial Examiner Leff: Sustained.

Q. (By Mr. Martin) What use is made of the material as reproduced?

A. None, no use at all.

Q. I don't know whether I asked this question or not, Mr. Murphy. In the event there was no matter required to be bogused would that have any effect at the present time as to the number of situations you have in the composing room at either of the papers?

A. No.

Q. Will you explain that further?

A. Well, it is obvious that if we are buying an average of three hundred hours weekly overtime to get out our regular production we can use more situations than we have available.

Q. Have you been able to secure additional men?

A. Well, not enough, as witnessed by the overtime.

[4084] Q. Mr. Murphy, I believe you gave some estimate before that you had a considerable amount of bogus material on the hook as of last August.

A. Yes.

Q. And is there still any of that material on the hook at either of the papers?

A. Yes, there is.

Q. Which one?

A. Democrat and Chronicle.

. . . .

[4085] *Cross Examination.*

Q. (By Mr. Van Arkel) Mr. Murphy, matter may be changed without resetting between the Democrat and Chronicle and the Times-Union, may it not?

A. Yes.

Q. That is, matter set in the composing room may be used fully on the night side or matter set on the night side may be used on the day side without reproduction?

A. That is right.

Q. Now, you mentioned that you had appealed the action of the local chapel in refusing to reproduce matter accumulated in the other chapel to the executive council of the Typographical Union, is that correct?

A. That is correct.

Q. When was that appeal taken?

A. Just a moment. Do you want to know what day we filed the brief or when we received the answer from the International? The answer was given us by the International Typographical Union on April 5.

Q. On April 5?

[4086] A. Yes.

Q. Of what year?

A. 1948.

Q. And about how long prior to that time did you take an appeal?

A. We have been working on this since the Summer of 1947, Mr. Van Arkel.

Q. Do you recall when you first communicated with the International Union?

A. We sent to George Dale of the Chicago office of the A. N. P. A. a report in answer to his letter of the first of December, 1947. We sent that on December 9.

Q. Had Mr. Dale asked you for a report on this matter, Mr. Murphy?

A. He had, under date of December 1, 1947.

Q. Did he state what his purpose was in making that inquiry?

A. Well, his purpose was to take it up with the International Typographical Union—the scaling committee.

Q. Now, do you know when Mr. Dale then took it up with the I. T. U.?

A. I can't give you the exact date, except that I got this answer on April 5.

Q. May I examine that please?

A. Yes.

(The document above referred to was shown to Mr. Van Arkel.)

[4087] A. I have a further reply, in the form of a copy of a letter sent to Julius Loos, secretary of the union, by Mr. Heard of the International Typographical Union, under date of May 12, 1948.

Q. Since this occurred subsequent to March 27, 1948, I shall not inquire about it.

The appeal which you took was pursuant to section 1 of Article 3 of the laws of the International Union, was it not, Mr. Murphy?

A. Well, I do not have the International Union laws before me here.

(The document above referred to was shown to the witness.)

A. I would say so.

Q. Now, does the management of the two papers have power to move situations from one composing room to another?

A. No. That is a matter of priority. A man may ask to be transferred, and if there is an opening in his class of work he may be transferred at his request, but situations are not shifted as a normal practice between the day and the night side.

Q. Is that a matter which has been covered by your agreements with the local union?

A. Well, yes. Verbally. I don't know what the contract says about it.

Q. Do the situation holders on the day side ever perform [4088] overtime work on the night side, or vice versa?

A. I think so, yes.

Q. That is a matter which is within the discretion of the management?

A. And the union. In other words, if we are short of men the union may ask a man, or the man may ask to work an extra shift during the week and get overtime.

Q. So that within those limits at least you have discretion to transfer work from the day side to the night side, and vice versa?

A. Yes.

Q. Now, with respect to the matter of reproduction matter. I believe you testified that has been a subject of negotiation over some years, is that correct?

A. Yes.

Q. Has that been one of the items that has been traded on in attempting to arrive at a full agreement?

A. Why, to my knowledge it has not been traded on. It has always been in every contract, and that's that.

Q. Well, there are certain questions, however, I take it, about which you have negotiated, have you not, with respect to reproduction, whether or not certain matter is subject to reproduction, for example?

A. That is right.

Q. The length of time within which it is to be reproduced?

[4089] A. And certain things that the union has con-

tended we should reproduce and we have contended we shouldn't.

Q. And by the same token, I believe, you testified there have been some negotiations with respect—or certain proposals at least by you—that a certain higher wage increase would be granted if the union would agree to waive accumulative reproduction?

A. Not exactly. What we proposed was that when we increased the scale, as we did, 27½ percent, that 27½ percent of the accumulated matter bogus to be reproduced, should be cancelled.

Q. Now, the union's position was one of unwillingness to do that, I believe you said.

A. That is right.

Q. Did you then propose a lower wage figure?

A. Oh, no.

Q. You did consider the two as matters to be traded against each other to a certain extent, did you not?

A. Well, we thought it was only fair when we granted an increase of that size that there should be some relief given us in the matter of the amount of bogus to be set—to be specific, 27½ percent.

Q. What I am not clear about, Mr. Murphy, is why you gave up that demand.

A. We gave it up to get the men back to work.

[4090] Q. Were they on strike at the time?

A. At the time.

Q. Now, in your previous negotiations had you made similar proposals?

A. Yes, but never got anywhere with them.

Q. Had the union ever made any proposals to you that they would take a certain lower wage figure if reproduction were continued, or take a higher figure if reproduction were cut down?

A. Not to my knowledge.

Q. Not to your knowledge?

A. No. It has always been their stand that it was part of their International Typographical Union laws, and was required in the contract.

Q. You have not, since August 1947, proposed elimination of reproduction entirely, have you?

A. No.

Q. Do you know whether or not— Well, first let me ask this, Mr. Murphy: Is any matter which is reproduced allowed to remain standing?

A. I would say no, because there is no purpose in setting it in the first place.

Q. You are familiar with any case where certain reproduced matter was left standing in the event there was a breakdown of type or failure of mats, or something of the kind?

[4091] A. I don't know of any such case.

Q. You do not?

A. No, sir.

Q. In every case matter which is reproduced is actually reset, is it not?

A. Oh, yes.

Q. Has the local union ever used what you would describe as any improper methods in an effort to get you to retain the system of reproduction?

A. I don't quite understand your question, Mr. Van Arkel. Proper methods?

Q. Improper methods.

A. I wouldn't know what they might be.

Q. Well, any threats?

A. I will have to give you this fully. In 1946, I believe it was, the local union suddenly demanded that all lettered words in a mat or electro—regular cuts, you know—had to be reproduced. We maintained that that was strictly in the jurisdiction of the engravers, the same as national advertising; and we had a four-day strike over that issue, and wound up having to reproduce these hand letter sections of local ads. They came to us in mat or plate form. That seems improper to me.

Q. Anything else, Mr. Murphy?

A. That is the chief thing, as I recall it.

[4092] Q. I take it from your answer that this was principally a matter which was discussed in the course of collective bargaining negotiations, as any item of wages, hours, and the like?

A. That is right.

Q. Now, even when your situations are fully occupied, there are times when there are lulls in a composing room between editions, are there not?

A. Well, if there are, there is something wrong with our supervision of that room, because I submit again that we are averaging three hundred hours weekly overtime, and if we are not utilizing regular time, it is our own fault.

• • •

[4093] Q. (By Mr. Van Arkel) In the past, Mr. Murphy, when you have had your situations filled and not been required to work overtime, have there been lulls between editions in the composing room?

A. You mean, to be specific, has there been any time during our regular hours when we could go on reproduction?

Q. Yes.

A. Yes, but not in this period.

Q. Now, under normal circumstances—and by normal I mean the kind of circumstances I have described—do you have any estimate as to the amount of reproduction which would be set during such lulls in the composing room?

A. I could not answer you that question because it has been so long since we were anywhere near normal—since we have been anywhere near normal times—so I just couldn't answer that question.

Q. Would you be able to say during the depression how much of [4094] this matter was reproduced during otherwise dead time?

A. I could go back through our records over the years probably and tell you, but offhand, no.

Q. Would it be a substantial portion of it?

A. A substantial portion of the amount of reproduction waiting at that time?

Q. Yes.

A. Yes, I would say it was.

Q. Would you say it might at times have been all of it, Mr. Murphy?

A. I think there were times when we had reproduction cleaned up. Now, I am not absolutely positive, but I think—oh, along there in the worst years—we were cleaned up on it, yes, sir.

Q. So that there have been times in the past when the reproduction was a hundred percent accomplished during lulls between editions?

A. I believe so; but that is a good many years back.

Q. Have there been any times since August 1947 when you have not required men to work overtime?

A. Well, there may have been a week here and there, but the average is 300 hours a year overtime.

Q. I note that in December you set 3200 inches, approximately and in January you set 14,200 inches.

A. Yes.

[4095] Q. Will you explain to us please why January is so much higher than December?

A. No, I can't explain why it is higher. It just worked out that way.

Q. Your busiest time of the year is in December, before Christmas, is it not?

A. Well, that is one of the busiest times.

Q. And is January a considerably slacker month than the month of December?

A. Yes.

Q. Would that be one of the reasons why the amount set in January was so much higher than December?

A. It undoubtedly had a bearing on it.

Q. Is the month of April also one of your very busy months, Mr. Murphy?

A. It is.

Q. Busier than, let us say, February or March?

A. That is correct.

Q. And would that in your judgment be one reason why during the month of April only thirty inches were set?

A. I think so.

Q. So that the reproduction work is spaced out over the course of the year, is it not?

A. Well, yes.

Q. And large amounts of it are set in your slack months, and [4096] then little or none set during your busy months?

A. Well, I could answer that differently too, by pointing out that we maintain situations during those dull months in order to set reproduction among other things.

Q. That results in a more uniform employment for the printers, does it not?

A. Yes.

Q. And in the course of your negotiations has the local union taken the position that that is one reason why they desire to continue reproduction?

A. I don't recall them ever evidencing that as a reason, Mr. Van Arkel.

• • •

Redirect Examination.

Q. (By Mr. Martin) Mr. Van Arkel asked you a few questions about what he referred to as normal times

during the depression when you, I believe, stated that during some periods of time you did catch up with your bogus or did a substantial part of it during regular working hours?

A. Yes.

Q. I also want to ask in that connection, referring to that type of situation, if there had been no bogus to reproduce, [4097] would you have had to maintain the same number of situations, Mr. Murphy?

A. No.

Q. Do you have any estimate as to the number of situations under which you could operate?

A. No, I haven't, but it is obvious that if you reproduce that much matter you supply so many man hours with which to reproduce it. Without it, it wouldn't be necessary to ply those man hours.

Trial Examiner Leff: Would you say that the reproduction work takes up more than about two percent of your total man hours?

The Witness: Well, I wouldn't want to get involved in another mathematical problem here.

Trial Examiner Leff: I can figure that out for myself.

The Witness: I don't know what percentage it takes. As a matter of fact, with all that hasn't been set, you would have to include the amount on the hook too.

Q. (By Mr. Martin) As a matter of fact, Mr. Murphy, do you still have some of the material on the hook from prior to last August?

A. Yes.

Q. Which has not been reached yet for setting?

A. Yes.

Q. That is substantially true?

[4098] A. That is so.

* * * *

WILLIAM MAPEL, was recalled as a witness on behalf of the General Counsel, and, having been previously duly sworn, was examined and testified further as follows:

Direct Examination.

Q. (By Mr. Martin) You are the Mr. Mapel who previously testified in this case?

A. That is right.

Q. Did you, at the request of General Counsel, ask that the members of your association prepare a set of figures with respect to bogus?

A. That is correct, insofar as it bears on those members of the association who are covered under the Typographical contract.

Q. Will you state what you did in that connection?

A. I asked the various officers to give us data concerning the number of columns of bogus that had been set since August 22, 1947; the number of columns of bogus more than four days [4099] old remaining to be set; the per column composition cost of all matter set in the composing room; the estimated dollar value of bogus set insofar as the cost factor is concerned; and the number or the equivalent number of situations which might be saved if there were no bogus to be set. And I asked them to indicate whether or not the replies, insofar as fact rather than estimate were concerned, were from actual records or from careful estimates of the situation.

Q. Were these records prepared insofar as you know by the man on the paper under whose supervision and control those figures were?

A. That is correct.

Q. Mr. Mapel, I hand you what has been marked for identification as—

Mr. Van Arkel: If the Examiner please, I have noted my objection to the amendment to the bill of particulars; I have noted my objection to any inquiry into this matter. May the record show a continuing objection with respect to all these matters, so I need not repeat it with respect to each question and each exhibit?

Trial Examiner Leff: Yes.

Mr. Martin: I ask that this document be marked for identification as Board Exhibit 112.

(The document above referred to was thereupon marked Board Exhibit 112 for identification.)

[4100-4101] Q. (By Mr. Martin) Mr. Mapel, I hand you what has been marked for identification Board's Exhibit 112, a document of three pages entitled "Bogus Summary, August 22, 1947 to May 10, 1948", with the names of various New York papers, and the columns you have just discussed in your testimony. Will you state what this is?

A. This is a compilation made from replies furnished as a result of my request. This is a compilation which was made at meeting held at my office on yesterday. Represented at the meeting were the responsible persons from the papers listed, and at my request, Commander C. J. Strang, the mechanical superintendent of the New York Times, acted as chairman of this meeting, and became the repository of information, which is summarized in this three-page document which I have just had handed to me.

[4104] * * * Q. (By Mr. Martin) Did the matter of bogus and reproduction come up in the course of your negotiations during the current year?

A. Yes, it came up a great many times as a general subject. It came up—I don't know how many times—prior to the Swygert injunction. It came up in eight negotiation meetings subsequent to the issuance of the injunction, and it was the subject of bargaining at each one of those times.

* * *

[4105] * * * CORTLAND J. STRANG was called as a witness on behalf of the General Counsel, and, having been first duly sworn, was examined and testified as followed:

Direct Examination.

Q. (By Mr. Martin) Will you state your full name and address, please?

A. Cortland J. Strang.

Q. Where do you live?

[4106] A. New York City.

Q. By whom are you employed?

A. New York Times.

Q. What is your position?

A. Mechanical superintendent.

Q. Will you state briefly what is involved in that position—what your duties are?

A. The general supervision concerning production of the newspaper.

Q. How long have you held that position?

A. Ten years.

Q. Now, were you present at a meeting of the various representatives of the newspapers in New York at which

time Mr. Mapel requested that what has been marked for identification as Board's Exhibit 112 was discussed?

A. Yes, I was.

Q. Were the figures for the New York Times prepared directly under your supervision?

A. Yes.

Q. And what was done with respect to the figures furnished by the other newspapers?

A. They were prepared individually by the representatives of the papers.

Q. Did you discuss with them the manner in which the exhibit was to be prepared?

[4107] A. Yes.

Q. And what was said?

A. Each item was thoroughly gone over, for each one of the papers set forth.

Mr. Van Arkel: Again, Mr. Examiner, may I object to this whole line of inquiry? May my objection be noted?

Trial Examiner Leff: Yes.

Q. (By Mr. Martin) Do you know whether or not representatives of each paper that had these figures prepared were individuals under whose supervision and control the records were kept?

A. Before I answer that, I must make one exception to that formal statement. The representative of the Mirror was not there. He phoned in his advice.

Q. Now, do you know whether or not those individuals whom you requested, and from whom you received the information, were the individuals at the papers under whose supervision and control the figures are kept at the various papers?

A. They are.

Q. Will you state, referring to Board's Exhibit 112, what the various columns here indicate?

A. The first column indicates the actual columns set since August 22, 1947 to May 10, 1948.

Q. All right. Now will you proceed to the second one, and go through the rest of them, please?

A. The second column refers to the columns remaining that [4108] must needs be set.

The third column requests information from several parties as to whether the figures are accurate or merely an estimate.

Q. Will you elaborate on that a little bit further as to what accurate means with respect to this?

A. That accurate records insofar as the number of columns to be set are kept; the times that they were set; the amount of work that was done on them; and it is a record that can be used by an auditor to determine costs.

Q. In other words, would it be fair to state that where the words "Acc." appear, the number of columns to be set was actually measured?

A. That is an actual measurement. It must be.

Q. It must be?

A. Yes. Or it would be an estimate.

Trial Examiner Leff: That includes labor and material cost, I take it?

The Witness: I will have to answer that by saying that in some instances in the next column you will see that it doesn't mean overhead, for example.

Trial Examiner Leff: And for that reason there are considerable discrepancies, of course.

Q. (By Mr. Martin) Where "Estimated" appears, what does that indicate?

A. That indicates that a sight measurement was made, and no [4109] rule was employed.

Q. Now, coming to the next column of "Average Composition Cost Per Column", do you know how that was made up by the various newspapers? How it was computed?

A. Yes. You see appended, on the second page of the exhibit, an explanation as to how the costs were figured.

Q. Did each newspaper use their own formal method of computing cost?

A. Exactly. We found that there was no common denominator, that insofar as the Times was concerned, in our cost per column, we include overhead, general overhead of gas, electricity, wear and tear on machinery, and really work out a cost account.

Q. I am directing your attention—

Trial Examiner Leff: The Herald Tribune is not included?

The Witness: That is right.

Trial Examiner Leff: You have the Herald Tribune producing less columns of reproduction, on a smaller cost per column, coming out with a figure almost twice that.

The Witness: That is right, and there is a reason for that. They did not include items in their overhead that we included in our overhead.

Trial Examiner Leff: That should make the figure less then, shouldn't it?

The Witness: No. The result is that when you get over [4110] to the next column, we subtracted in the estimated saving, our overhead, realizing that that would still continue, and was not a direct out-of-pocket charge.

Now in the column "Estimated Dollar Savings if Bogus Eliminated" we feel that $84,250 is an actual out-of-pocket charge. No depreciation, machinery, or any of the other cost accounting variables are included in that.

Trial Examiner Leff: And the Herald Tribune?

The Witness: The Herald Tribune did not include it in the first place; therefore they did not subtract it in the fifth column.

Trial Examiner Leff: All right.

Q. (By Mr. Martin) Will you explain a little bit further your method of computation?

A. Yes.

Q. I notice, referring particularly to the note with respect to the New York Times, well, will you just elaborate a little bit further as you go through that note?

A. In our normal figuring of cost per column we did include supervision, apprentices, machinists, salary of supervision, apprentices, machinists, electricians, miscellaneous helpers, and also rent, heat, power, office supplies, and equipment depreciation, to obtain the figure of $14.95 per column. Now, we feel that insofar as the bogus is concerned, that those factors should be eliminated; and we therefore deducted [4111] twenty-five percent from the cost per column, and, furthermore, we felt that in our specific instances a man could set two columns of bogus in the time that he would normally set one column of advertising matter.

Q. Will you explain why you used that figure?

A. The advertising that we have runs page size. We haven't very many pages which are known as open pages, such as the Macy ads, Saks Fifth Avenue ads, and so forth, and in reproducing these ads, we feel that a man can do double the work that he would do in a normal setting.

Does that explain it?

Q. Is his bogus handled exactly as ordinary live matter?

A. The bogus is handled exactly as live matter. It is set on the machines, hand make-up. Proofs are pulled. The copy is read.

Q. What is done with it after that?

A. It is thrown away.

Q. Thrown away?

A. Yes.

Q. Is it ever used?

A. No.

Q. Does your situation with respect to the time you have figured bogus matter as being matter that is set in about half the time of some of your other work—does that same situation apply to other papers?

[4112] A. No.

Q. Will you explain why?

A. It varies.

Q. Explain why.

A. It varies in the other papers, and that is the reason for the variation in Column 6, in the savings that the papers show in that column—the estimated saving.

Q. Are there certain types of ads that do require a longer time regardless of whether it would be bogus or not?

A. Yes. For instance, the A. and P. ads in which there is a great deal of small type set on angles, in circles, and so forth, requiring hours and hours of work. We have nothing like that in the Times.

Q. Are there certain papers in the New York area that do have a large number of that type of ad?

A. Yes. Specifically, the Brooklyn Eagle, the Long Island Press, the Post, the Telegram, and the Sun.

Q. Would that account for part of the notes that appear on the second page in which the Brooklyn Eagle indicates that the cost per column of setting the bogus is more than regular material?

A. That is the reason to which the mechanical superintendent of the Brooklyn Eagle attributes his cost—his excess cost.

Q. Now, calling your attention again to Column 6, which is "Extra situations caused by bogus", referring particularly to [4113] the New York Times, I notice you have the figures "23" in there.

A. Yes.

Q. Will you explain that a little further?

A. This figure 23?

Q. Yes.

A. The figure 23 represents the situations required to set the bogus.

Trial Examiner Leff: How many situations do you have altogether in the New York Times composing room?

The Witness: In the New York Times composing room, five hundred situations.

Trial Examiner Leff: Would you know how many situations the other papers have in their composing rooms?

The Witness: No, I can't give you that.

Trial Examiner Leff: All right.

Mr. Van Arkel: That does not include extra situations, does it?

The Witness: Beg pardon?

Mr. Van Arkel: That does not include extra situations, does it?

The Witness: Extra situations are nonexistent at the present time.

Q. (By Mr. Martin) What has been the situation with respect to working overtime at the New York Times in recent months?

[4114] A. Heavy.

Q. Do you have an estimate as to how much overtime is being worked?

A. Yes, we run between 800 and 1000 hours of overtime per week.

Q. In the event there was no bogus to reproduce, would the amount of overtime in any way be changed?

A. Yes. We believe we would reduce that overtime substantially, possibly wipe it out.

Q. What has been the situation with respect to men coming in to work at the New York Times? In other words, have you had many dark situations?

A. Yes. A dark situation means that the situation is not filled when a man fails to report for work. The Times as well as all other papers is experiencing that at the present time.

Q. Will you explain a little further, with particular attention to the New York Times, as to the set-up in your composing room with reference to the news side and the ad side? How is matter set?

A. The new side is consigned with setting the text and tables, and classified advertising for the daily and Sunday paper. The ad alley concerns itself with the setting and reproduction of advertising, having their own linotype machines, and the equipment is separate and distinct from the news equipment.

[4115] Q. Where is the matter reproduced—that is required to be reproduced?

A. In the ad alley.

Q. Is it ever done in the news side?

A. No.

Q. Is there a reason for that?

A. The ad machines have special fonts of type which the news machines would not carry, so that it isn't possible to switch the two.

Trial Examiner Leff: Will men, however, be brought over from the news side to work on the reproduction on the ad side?

The Witness: No.

Trial Examiner Leff: On no occasions?

The Witness: No.

Trial Examiner Leff: All right.

In case you were to have a lull on the news side, and bogus were to be performed on the ad side, would you ever draw men from the news side?

The Witness: No. We have a departmentalized shop in which a man is hired for a specific job, and there is no transfer between departments.

Trial Examiner Leff: Is that true with other papers as well?

The Witness: All papers, except the Post and the Home News.

[4116] Q. (By Mr. Martin) Now, referring particularly to the Times, how are matters determines as coming under the reproduction section of your contract?

A. It rests in the hands of the foreman—the chapel chairman.

Q. Now, does your contract have a provision requiring matter to be reproduced within a certain number of days?

A. Yes.

Q. How many days is that?

A. Four days.

Q. Four days?

A. Yes.

Q. Now, as a matter of fact, during the past several years have you been able to reproduce matter within that time, Mr. Strang?

A. No.

Q. What happens to it?

A. We are falling behind.

Q. Well, does that matter eventually have to be bogused?

A. Yes.

Q. Now, referring again to Exhibit 112, and calling your attention particularly to the extra situation by bogus, going down to the News, I notice there is a zero in that column with respect to extra situations caused by bogus.

A. Yes.

[4117] Q. Can you further explain that?

A. The News—

Mr. Van Arkel: If the Examiner please, this exhibit has still not been offered. I think we are having an extended inquiry without having it offered.

Trial Examiner Leff: Do you want to offer it?

Mr. Martin: I will offer Board's Exhibit 112.

* * *

[4118] * * * Trial Examiner Leff: Objection overruled. Board Exhibit 112 is admitted.

(The document heretofore marked Board's Exhibit No. 112 for identification, was received in evidence.)

Q. (By Mr. Martin) Now, going back to the last question with respect to the extra situations caused by bogus at the News, will you explain further the zero appearing in the sixth column of this exhibit?

Trial Examiner Leff: Don't you think it would be better to limit this witness's testimony to the New York Times, where he is familiar with what is done? His testimony is purely hearsay as to any of the other material appearing on Board's Exhibit 112.

Mr. Martin: Well, some of these things I have asked him about, he knows. I mean he has testified already that he knows certain things that do exist in the composing rooms, such as this other testimony that certain papers do have a separate news and ad side, in response to the question you asked him and some do not.

There are notes attached to this exhibit, if the Examiner please.

Trial Examiner Leff: Well, isn't the not self-explanatory [4119] as far as the News is concerned.

Mr. Martin: I don't think entirely so. It probably is a fair indication. You must remember the fact that they had no overtime.

Trial Examiner Leff: Very well.

Do you want to answer that question?

The Witness: The News feels that they would not reduce the force, but would take advantage of the man hours available, and by the elimination of bogus, to materially reduce their overtime.

Q. (By Mr. Martin) Do you have any personal knowledge yourself as to the situation at the various newspapers in New York City with respect to overtime being worked?

A. I can't answer for all the papers. I can answer for the Times. I think it is in the record, a hundred and fifty to a thousand hours.

* * *

[4120] * * * Q. (By Mr. Martin) Referring to Board's exhibit 112 again, Mr. Strong, would you state with reference to the figure 23 as to the extra situations caused by Bogus for the New York Times what would be the current effect on the number of men employed in the composing room in the event bogus were eliminated?

A. We would make every effort to absorb 23 situations, giving them work which is now done in overtime in their regular time, thereby, of course, reducing the overtime and utilizing the 23 situations which are now employed in setting bogus.

Q. What do the men now ordinarily on overtime do?

A. The men on overtime at present are setting wait orders.

Q. Will you explain what you mean by that?

A. A wait order is an ad order that comes into the composing room for publishing at some future date.

Trial Examiner Leff: I would like to interrupt for a [4121] moment. I want the record clear on this.

You referred a moment ago to the effect that you might be able to eliminate twenty-three situation holders who are now working on bogus. Did you mean by that answer to imply that you have twenty-three situation holders who do nothing but work on bogus?

A. No, definitely not.

Q. The bogus work in the composing room is spread, I take it, among all the printers working on the ad side, is that correct?

A. In general, yes. That has to be a general statement, though, because there would be a number of men in the ad alley who never work on bogus. For instance, the foreman and the assistant foreman and your supervisory people would not work on it and I might make a note there that that is one of the reasons we left out the supervisory people in figuring $84,250 as the cost, out of pocket cost of bogus.

Mr. Martin: I have no further questions at this time.

Trial Examiner Leff: Do you have any questions, Mr. Hanson?

Mr. Hanson: Do I?

Trial Examiner Leff: Yes, of this witness.

Mr. Hanson: Just a minute.

Q. (By Mr. Hanson) You say that there are no men on the New York Times who work only on bogus.

[4122] A. That is correct, no men work only on bogus.

Q. Do you have any that devote the greater proportion of their time to bogus?

A. No.

Q. Do you know what the situation is on the other New York papers?

A. I think it is the same as ours but I can't be specific on that.

Q. I believe you testified, Mr. Strang, that the New York Times mechanical department in turn is departmentalized?

A. That is right.

Q. So that a man who works on news copy does not work on advertising copy?

A. That is right.

Q. Now, does it require different qualifications to work advertising copy from the qualifications that are required on news copy?

A. Yes. It is seldom that you find a man qualified to work in all departments.

Q. Who passes upon the qualifications?

A. The foreman is the sole judge of a man's qualifications, of his competency.

Q. Yes. Well, then, as I take it from what you have just said that the mere holding of a card indicating membership in the ITU would not indicate overall competency?

[4123] A. That is right. That is, in my opinion.

• • •

Cross Examination.

Q. (By Mr. Van Arkel) Mr. Strang, in your judgment would the holding of a card in the local union of the International Typographical Union indicate that a man was competent in some branch of the profession or art?

A. We would assume that he was until we found otherwise and would accept him as a journeyman.

Q. Now, I believe you testified that if reproduction work were eliminated that would eliminate the necessity for overtime, Mr. Strang. To begin with, your agreements have always provided and it has been your custom, has it not—

A. I think on the first part of it there we will have to clarify that. We would work toward the elimination of overtime. I didn't say that we would wipe it completely out. There would be, I am sure, occasions in which we would have a slight amount of overtime, an accident or something like that.

Q. Your agreements have provided and it has been your custom, [4124] has it not, that matter is not to be reproduced at overtime rates, is that correct?

A. That is right.

Q. Has it always been the custom in the composing room that if there is live matter to be set, the reproduction matter is set aside until all the live matter is cleared up?

A. Providing we face a deadline of publishing, obviously the bogus is set aside to meet the current issue, the deadline on the current issue.

Q. And if necessary it is allowed to cumulate for several days or weeks until any such emergency has passed, is that correct?

A. That is correct.

Q. Now, that being true your composing room would work on any available live matter before any compositor would work on reproduction matter?

A. No.

Q. No? What kinds of matter might they work on?

A. He might work on bogus at the beginning of the week and set aside a wait order, in making an effort to live up to our time limit.

Q. That is the time required for resetting by the contract, is that correct?

A. Exactly.

Q. Now, in such instances the wait orders, however, would [4125] have to be set in time to meet the particular edition for which they were scheduled, would they not?

A. That is right.

Q. Would it be true that over a period of years that much of the matter has been reproduced during periods in the composing room which would otherwise be dead?

A. No.

Q. None of it?

A. The dead period you refer to as the men having nothing to do?

Q. Yes, time between editions and the like.

A. No. Bogus has been set on standing time, but that is a very, very small increment in composing room operation at present.

Q. Do you know whether or not the practices of the New York newspapers is typical in having, as it were, separate composing rooms for news matters and advertising matter?

Mr. Hanson: I object to the word "typical" unless he explains typical of what.

Trial Examiner Leff: I think the question does explain it. Objection overruled.

Mr. Hanson: Mr. Examiner, is it typical of New York, typical of the country, typical papers of certain size or typical of what?

Trial Examiner Leff: Typical of papers through the [4126] country generally, I take it.

Mr. Van Arkel: That is correct, Mr. Examiner.

The Witness: That has to be definitely broken down into two parts: One, the large metropolitan daily and the smaller dailies. The smaller the daily, the less departmentalized and the more one man will work at more than one job.

Q. What would you include in the term "large metropolitan centers"? New York, certainly.

A. Chicago, the large cities of the United States.

Q. Well, for example, would you refer to Rochester as a large city?

A. Yes.

Q. You would carry it down as far as Rochester?

A. Yes, I think so.

Q. Is it your impression that the work in newspapers of that size is departmentalized?

A. Yes, I would say any shop that has over fifty journeymen.

Q. Now, this matter of reproduction: Have you been present at the negotiation with Local 6 in New York over the past years, Mr. Strang?

A. Yes.

Q. The subject of reproduction, I believe, has been one subject discussed?

A. Yes.

[4127] Q. I believe that you have from time to time proposed its complete elimination?

A. Yes.

Q. How was that matter usually disposed of?

Mr. Hanson: Pardon me, I didn't get that last question.

Trial Examiner Leff: Will you please read it to Mr. Hanson?

(Question read by the reporter.)

The Witness: By the refusal on the part of the local union to consider abolishing the reproduction.

Q. (By Mr. Van Arkel) And has it been the usual practice to reach an agreement embodying a clause requiring the reproduction of matter?

• • •

A. Yes.

Q. Has there been negotiations with respect to the types of matter required to be reproduced?

A. Over a period of years? Yes.

Q. And did those usually result in some agreement with the union as to the types of matter which were required to be reproduced?

A. That point goes back before my period of negotiations.

Q. That question has not arisen since you entered the negotiations?

[4128] A. The point that you have made. Changes outside the time limit are beyond my years of experience.

Q. That is, since you have been negotiating there has been a standard clause covering the types of matter which were to be reproduced?

A. Yes.

Q. And no changes in that clause in your experience? I mean with reference to the types of matter to be reproduced.

A. I can't recall.

Q. There have also been negotiations, have there not, concerning the length of time within which matter is to be reproduced?

A. Yes.

Q. Now, were you present at the negotiations during the early part of 1948?

A. No.

Q. You did not participate in them?

A. No. I haven't participated in any negotiations since before the war.

Q. I see. Now, I believe you testified, Mr. Strang, that your computations indicated that an ad compositor could set bogus matter in about half the time required to set original matter, is that correct?

A. That is correct.

Q. That is right. Is one of the reasons for that that [4129] advertisers frequently require more than one proof of an advertisement?

A. I can't follow that.

Q. Well, is it the practice of some advertisers to receive a proof of an advertisement, then to correct that proof, send it back, require resetting, get another proof, correct that and the like?

A. Yes.

Q. So that there may be several proofs of a single advertisement before the completed advertisement is ready for publication, is that right?

A. Yes.

Q. Now, is that one of the factors which makes it simpler and quicker to set reproduced material?

A. No. That factor was not one of the main factors in deciding that a man could set twice as much bogus as such.

Q. Did you consider that as a factor at all?

A. Yes.

Q. In any event any material—you never draw more than one proof of any material which is reproduced, do you?

A. That is correct.

Q. Now, what would you say then was the primary factor in this difference?

A. The main factor is the carelessness with which bogus is handled. The men realize that it will not appear

in the [4130] New York Times and he cannot be held strictly accountable for not following exactly the copy.

Q. In making up reproduced matter is it customary to include cuts?

A. Reproduced matter?

Q. Yes.

A. No.

Q. They are just filled in with material?

A. Yes.

Q. Is that also a factor in making this quicker?

A. Yes, definitely.

Q. Now I would like to direct your attention again to Board's Exhibit 112, Mr. Strang.

A. Yes.

Q. Would it be your testimony that the only factor which accounts for the difference between an average composition cost per column, in line 4, of $4 for the Home News, for example, as compared with $14.95 on the New York Times is because of the factor of overhead?

A. Plus the character.

Q. The character of the type of advertising?

A. Yes. That must be taken into consideration.

Q. Now, this average composition cost per column, does that cover only advertising copy?

A. No.

[4131] Q. Or does that cover all copy?

A. It covers all copy.

Q. That is, I take it each newspaper maintains some average figures as to its costs of setting a column of type, is that correct?

A. That is correct.

Q. Now, in making up that average cost figure is that time required to set reproduced material included?

A. No.

Q. That is, this figure in column 4 is exclusive?

A. That is definitely exclusive of bogus.

Q. Now, do you know how they compute the amount which is eliminated because of reproduced matter?

A. I don't quite understand what you mean.

Q. Well, if I understand your testimony correctly column 3 represents the average cost to the newspaper

of setting a column of type, news or advertising, exclusive of the costs of reproducing matter.

A. That is right.

Q. Now, therefore, I take it in computing these figures the particular newspapers were first required to bring down their costs into a cost per column including reproduced matter, weren't they?

A. No.

Q. How could they eliminate it?

[4132] A. You see, each one of these papers has their own method of cost accounting and that is the reason for the foot notes in each case. There is no common point.

Q. Well, that is what I understand but I am trying to find out what I can about that.

A. Let us take the Times, for instance. That $14.95 represents the number of pages actually published, divided by the cost of publishing, less extraneous matter, the cost of extraneous matter such as bogus or supplements and extracurricular activities.

Q. Promotional advertising and that kind of thing?

A. That is it.

Q. That is what I am trying to get at, Mr. Strang. Before you reach the figure $14.95, therefore, in order to eliminate the cost of reproduction you had to arrive at a cost of reproduction, did you not?

A. Oh, yes. Now, we feel that if a man can set two columns of bogus while he is only setting one of straight advertising, then there is a factor of fifty per cent which should immediately be cut out. Now, that, mind you, has nothing to do with overhead. We take the hundred thousand dollars; we immediately reduce it fifty per cent and say that actually the cost represented by X number of columns of bogus is reduced fifty per cent. Therefore, it is only half of the cost of regular advertising. Does that answer your question?

[4133] Q. No. The inquiry here, Mr. Strang, is directed to trying to ascertain the cost of the newspaper per column of setting a column of reproduced material. Now, as I understand it, in making up the figures in column 4 you first subtracted the cost of reproducing matter.

A. It was never in there. It was never in our cost of the beginning.

Q. Let us start at the beginning. If I understand your testimony correctly, the figure of $14.95 in column 4 was obtained by dividing the total number of columns of matter published by the New York Times over some period of time into the total cost of publishing the New York Times, minus certain other matters.

A. Other factors.

Q. Certain other factors.

A. That is right.

Q. Among which other factors was the cost of reproducing material, is that correct?

A. Yes.

Q. Now, do you have your work sheets with you?

A. No, not the auditing work sheets. That would require a payroll.

Q. Do you have with you the figure which you subtracted from your total cost for reproducing matter?

A. No.

[4134] Q. Do you have any of your—

A. I would have to get all the data. I did not bring it with me.

Q. Do you have any knowledge as to what the per column cost of reproduced matter was which you subtracted from your total cost?

A. Yes. That I can give you. Deducting 25 per cent overhead from $14.95 gives you $11.11 per column. Now we have taken out the overhead. Now, as long as we want to talk about bogus we will divide that again by 50 or half and the cost per column of bogus is $5.60.

Q. Now, that figure of $5.60 you could not obtain before you had the figure $14.95, could you, Mr. Strang?

A. That is right. It was obtained from $14.95 as a base.

Q. But I understood that before you could obtain the figure of $14.95 you had to deduct from your total cost the cost of reproducing matter.

A. The cost of reproducing much more than bogus. Our subsidiary publications, any promotional work, our overseas publication, our magazine.

* * * *

[4135] * * * Q. (By Mr. Van Arkel) I am curious to know, Mr. Strang, by what mathematics you ascertained how much was to be subtracted from your total cost to allow for reproduction matter?

A. All you have to do is to have and know your costs of light and overhead in general, supervision costs and any one of them can be subtracted.

Q. With those I have no difficulty. I am troubled, however by the calculation which you said you went through whereby you subtracted from your total cost certain extraneous matters, including the cost of reproducing matter.

A. To get the $14.95 figure.

Q. That is right. Now, Mr. Strang, how did you figure the amount which you were going to subtract?

A. That took auditors days, to go over the books and do an auditing or an accounting job.

Q. To compute the cost of reproducing matter?

A. No, to compute the cost of what it costs us to publish a column, not what it costs to reproduce.

Q. That I understand. Well, let me start again at the beginning. If I understand your calculations correctly here, you took the total number of columns of matter published by [4136] the New York Times and divided that into the total cost of publishing the New York Times—

A. No.

Q. (Continuing)—minus costs of reproducing matter, your subsidiaries, your magazines and promotional costs and the like?

A. Yes.

Q. Is that correct?

A. Yes.

Q. All right.

A. That cost was $14.95.

Q. All right, very good. But, now, the step in that computation which it seems to me is left completely obscure is what you deducted from your total costs on account of the cost of reproducing matter?

A. The total cost that you apparently have in mind covers much more than the composing room. Is that what you are going after? The costs in the stereotype room, the press room, is that in your mind?

Q. No. I assumed that the total costs that you were referring to were the total costs of operating a composing room.

A. That is right.

Q. Now, from that total cost you deducted the cost of reproducing matter and what you call extra curricular activities, is that right?

[4137] A. For the purposes of getting the $14.95.

Q. Exactly. But, now, how did you estimate, or how did you arrive at the figure which would be deducted from your total cost and allocate it to the cost of reproducing matter?

A. Simply by going over and making an audit of our payrolls in the composing room.

Q. And did you go back and compute the time spent and the like?

A. Yes, definitely.

Q. Now, did you make any allowance in that on account of any dead time? Did you attempt to compute whether or not during the period covered by this study there were any periods when ad compositors would otherwise have been idle if they did not have reproduced matter?

A. We have no dead period.

Q. You never have during the past?

A. No. We haven't had dead time in two years.

Q. Have you had prior to that time?

A. Years ago.

Q. Do you have those computations with you?

A. Oh, no.

Q. Your work sheets or anything of the kind?

A. No.

Q. Well, do your payroll sheets have a breakdown showing how much time was spent by each man on reproducing matter?

[4138] A. Yes.

Q. And regular matter and the like?

A. Yes.

Q. Now, do you recall what—first let me ask this: Do you recall what the total cost was that was allocated to reproduction work and which was subtracted from the total cost of operating your composing room during this period?——

A. No.

Q. You don't have that?

A. No.

Q. Did you make any effort to break that figure down into cost per column?

A. Now, what figure do you mean?

Q. Well, if I understand your testimony, your auditors made a study of your payrolls and arrived at the total cost chargeable to reproducing matter from the period August 22nd to May 10th.

A. Yes.

Q. Now, I assume that those same payroll sheets show the number of hours which were spent in producing that amount of reproduced matter, do they not?

A. Not on the main payroll it wouldn't show that, but subsidiary sheets exist that do.

Q. Was any effort made to compute the amount of time, the cost per column for reproduced matter from those records?

[4139] A. No.

Q. Well, now, what puzzles me, Mr. Strang, is why it was necessary, if you had figures in the course of making this study showing the total costs to be allocated to the reproduction of material and if you also knew, as apparently your records show, how many columns of matter were reproduced during that period, you could not have obtained the figure directly instead of following this circuitous matter of first arriving at the figure $14.95?

A. I don't agree that it is a circuitous method. This is our normal method. You are asking for a circuitous method.

Q. I suggest to you that the method which you used was to take your total composing room costs, subtract from it the costs of reproduction and other amounts, divide that by the total number of columns of matter produced to get a column figure, then subtract from that column figure your overhead charges and then divide that by two to arrive at a figure of $5.60 per column, when you could have directly divided the total costs to be allocated to reproduced matter by the number of columns of bogus matter reproduced and arrived at a direct figure.

A. You are losing sight of the point that our normal procedure is to work up a cost per column figure every month.

Q. Why, you have never before had occasion to work up,—to make any studies with respect to this particular matter, [4140] have you?

A. In so far as the $14.95 is concerned we work that out every week and outline it every month.

Q. That is correct, but this was a special study.

A. That is correct.

Q. With this particular end in view.

A. So that normally if we have the $14.95 as a normal procedure, then why should we go around the barn and use the other method?

Q. Because it seems to me it would give you very much more accurate results.

A. I think that if we did do that we would find that the $84,250 might well be increased to a hundred thousand dollars.

Q. You don't know, do you, Mr. Strang?

A. I suspect.

Q. In any event you made no effort to break the figures down in that fashion?

A. No.

Q. Now, do you know what method the Home News used to arrive at a figure of $4 average composition cost per column?

A. Only what they say. "Figures as to cost based on statistical compilation of advertising column production costs."

• • •

[4141] • • • Q. (By Mr. Van Arkel) Well, now, Mr. Strang, the wages of employes in the composing rooms in New York are identical, are they not?

A. That is right.

Q. Would there be sufficient difference in the skill of the compositors at the Home News and the Times, let us say, so that the Home News could get for $4 the same amount of production as the New York Times gets for $14.95?

A. I can't answer that. I am not familiar enough with their operation.

Q. Is there any appreciable difference, so far as you are aware, between the skills of the compositors in the composing rooms of the different newspapers?

A. No.

Q. So that man hour production would be about the same on each of your newspapers?

Mr. Hanson: Well, Mr. Examiner, I object to that question.

The Witness: I can't answer that.

Mr. Hanson: You have tabloid newspapers with fewer column inches to set, then you have standard newspapers, you have eight column page newspapers, seven column papers. The question is altogether too general.

[4142] Trial Examiner Leff: Will you make your question more specific, Mr. Van Arkel, please?

Q. (By Mr. Van Arkel) So far as you are aware, Mr. Strang, is there any significant difference between the man hour production of compositors in the composing rooms of the New York newspapers?

A. I think they will vary. They have to vary due to the difference in the individual problems.

Q. Would that variation be a significant one.

Mr. Hanson: I object to the word "significant".

Trial Examiner Leff: Overruled.

Mr. Hanson: Well, Mr. Examiner —

Trial Examiner Leff: You can ask the question when you take over the witness, as to what he means if he answers it.

Mr. Sinsheimer: I think it is totally meaningless under the circumstances. You have different kinds of newspapers running different kinds of advertisements and you ask for an answer to a question that means absolutely nothing.

Mr. Van Arkel: That is what I am trying to demonstrate, that these figures are meaningless.

Trial Examiner Leff: I should like to ask a question at this point.

Q. (By Trial Examiner Leff) The Mirror and the News are each tabloids, are they not?

A. Yes.

Q. It is pretty much the same kind of paper as far as composition [4143] is concerned, isn't that true?

A. Yes.

Q. Now, the Mirror and the News during the period shown by this exhibit set substantially an equal number of columns, the News was slightly more, only a few hundred columns more, is that correct?

A. Yes.

Q. How do you account for the fact then that the total savings of the News would be $45,000 as against approximately $12,000 for the Mirror?

A. I can't answer that except that in each composing

room they have problems peculiar to that individual composing room.

Q. Do you think that these peculiar problems would account for that vast difference?

A. No. I believe it is in cost accounting.

• • •

[4145] • • • Q. And they carry the same type of ads generally? That is, they carry ads such as grocery store ads and the like?

A. Yes.

Q. Now, bearing in mind that each of these papers set approximately an equal number of columns, how do you account for the fact that the savings to the Brooklyn Eagle would be approximately three times the savings to the Long Island Press if bogus were eliminated?

A. Well, you note that his cost per column is fifty per cent greater in the case of the Brooklyn Eagle than the Long Island Press and that again in turn would be reflected in the saving.

Q. Why is it so much less per column on the Long Island Press?

A. I would have to fall back on their method of accounting.

Q. It wouldn't be due to differences in labor costs, would [4146] it?

A. No.

Q. It wouldn't be due to differences in material costs, would it?

A. No, it would not.

• • •

[4148] • • • Q. Well, the very variation shown in these columns indicate the impossibility of computing accurately any figure on this, do they not?

A. I think the figure is reasonably accurate.

Q. Despite the variation of, say, $4 for the Home News and $14.95 for the Times?

A. Going back again to the difference in the cost account- [4149] ing.

• • •

Q. I take it there is no uniform set of accounting standards [4150] used by newspapers, is there?

A. I don't know of any.

Q. Well, each one follows more or less that system of accountancy—

A. Which is directly reflected in column 4.

Q. Each following that system which seems best adapted to its own particular needs?

* * *

[4154] Q. (By Trial Examiner Leff) What were your total production costs in the composing room during this period?

A. Total production costs in the composing room?

Q. Yes.

A. In all the composing room in that period?

Q. Yes.

A. Roughly in eight months—I will give it to you in just a second. That is really eight and a half months, isn't it, in that period? No, it isn't; it is eight months.

Mr. Hanson: Eight and half, eight and two-thirds.

The Witness: $1,650.000.

Q. (By Trial Examiner Leff) So that percentagewise then your savings if bogus were eliminated would be about 5 per cent, is that right?

A. That is very close.

Q. Yes.

[4155] A. It lies between four and six per cent, depending on the week.

Q. And that would also be true if I asked you for the proportion of regular situation holders you would not need. Your figures show you have a total of 500 regular situation holders and if bogus were eliminated you could experience a saving of 23.

* * *

[4165] * * * Trial Examiner Leff: Board Exhibit No. 110 is admitted in evidence.

(The document heretofore marked Board's Exhibit No. 110 for identification, was received in evidence.)

* * *

[4174] * * * Trial Examiner Leff: On the record.

I will read it into the record:

"It is hereby stipulated and agreed by and among counsel that the transcript of testimony of Woodruff Randolph taken in the District Court of the United States for the southern district of Indiana in Case

No. 1587 (Board's Exhibit 80-D herein), on March 11, 1948, should be corrected to read as follows:

"The first three lines on page 122 should be deleted and in their place set forth the following:

"Employer—296; P-6 A agreements, eighteen [4175] other contracts, four; and interim openings in current contracts to the number of ninety-three."

• • •

[4177] • • • Mr. Sinsheimer: We will offer Board's Exhibits 81-A and 81-C; 81-B, I believe, was received, but just to be sure that the record is clear, I will offer that again. I offer Board's Exhibits 81-A, 81-B, and 81-C in evidence, in conjunction with the Baltimore record, which was previously offered and received in evidence as Board's Exhibits 80-A, -B, and -C—and when I say the Baltimore record, I refer to the testimony of Woodruff Randolph at Baltimore.

Trial Examiner Leff: Is there any objection?

Mr. Van Arkel: No objection.

Trial Examnier Leff: There being no objection, they are admitted.

(Thereupon, the documents heretofore [4178] marked Board's Exhibits 81-A, 81-B, and 81-C for identification, were received in evidence.)

• • •

[4181] • • • Trial Examiner Leff: I see. Objection overruled. The exhibit will be admitted.

(Thereupon, the document heretofore marked Board's Exhibit 88 for identification, was received in evidence.)

• • •

[4193] • • • Mr. Van Arkel: Mr. Examiner, I have a few matters I should like to go into.

In the first place I should like to offer a copy of certain testimony given by Mr. Fred C. Rashley in the [4194] Indianapolis case. This is a transcript of his testimony.

Trial Examiner Leff: What city does that relate to, Mr. Van Arkel?

Mr. Van Arkel: That relates to Jamestown, New York. I would like to offer that as respondent's Exhibit No.—I don't know what the next number is.

• • •

(The document above referred to was marked Respondent's Exhibit 18-A for identification.)

Mr. Van Arkel: On behalf of Mr. Sinsheimer, as his exhibit, but being offered by me as Respondent's Exhibit 18-B, I shall ask to have marked an affidavit of Mr. J. Robert Nelson, which was filed in Indianapolis in connection with the injunction case there.

(The document above referred to was marked Respondent's Exhibit 18-B for identification.)

Mr. Van Arkel: I offer those in evidence.

Trial Examiner Leff: Any objection?

Mr. Sinsheimer: No objection. My understanding is that [4195] these are being received in this proceeding pursuant to the stipulation which we entered into with regard to matters such as the New Bedford testimony and the Columbus, Georgia testimony, in which the stipulation is more fully described in the meeting of April 15.

* * *

Mr. Van Arkel: That is right.

Now I should like to offer as Respondent's Exhibit 19-A, certain testimony given by Mr. John J. Byrnes in the course of the Indianapolis hearing on March 11, 1948. I shall ask to have that marked.

(The document above referred to was marked Respondent's Exhibit 19-A for identification.)

Mr. Van Arkel: And as Respondent's Exhibit 19-B, which I am offering on behalf of Mr. Sinsheimer and not as Respondent's testimony, an affidavit of Mr. James E. Stiles.

Trial Examiner Leff: Rockville Center?

Mr. Sinsheimer: Rockville Center.

Mr. Van Arkel: I would like to have that marked, please.

(The document above referred to was marked Respondent's Exhibit 19-B for identification.)

Mr. Van Arkel: As Respondent's Exhibit 19-C, on behalf of Mr. Sinsheimer, and not as our evidence, an affidavit of Mr. Styles—supplemental affidavit of Mr. Styles—dated the 17th of May.

(The document above referred to was marked Respondent's Exhibit 19-C for identification.)

Mr. Van Arkel: As Respondent's Exhibit 19-D, on be-

half of Mr. Sinsheimer, and not as our exhibit, an affidavit of Mr. William C. Fowley, dated May 17, 1948.

(The document above referred to was [4197] marked Respondent's Exhibit 19-D for identification.)

Mr. Van Arkel: As Respondent's Exhibit 19-E, a document headed "Between———and Nassau County Typographical Union No. 915", not dated.

* * *

[4198] * * * (The document above referred to was marked Respondent's Exhibit 19-E for identification.)

Mr. Van Arkel: I will ask to have marked for identification as Respondent's Exhibit 19-F, a document headed "Agreement between———and Nassau County Typographical Union No. 915" in the form of the last exhibit, I believe, which is headed Exhibit A, and in the left-hand corner marked "Checked copy".

(The document above referred to was marked Respondent's Exhibit 19-F for identification.)

* * *

[4199] * * * (The document heretofore marked Respondent's Exhibit 19-F for identification was withdrawn, and renumbered Respondent's Exhibit 19-C-1 for identification.)

Mr. Van Arkel: As Respondent's Exhibit 19-C-2 then, and these last two I am offering on behalf of Mr. Sinsheimer, I will ask to have marked for identification a letter dated July 31, 1947, headed "Dear John", consisting of three pages, and with a typewritten signature, "James E. Stiles".

(The document above referred to was [4200] marked Respondent's Exhibit 19-C-2 for identification.)

Mr. Sinsheimer: Do you have 19-C-2?

Miss Armistead: No.

Mr. Sinsheimer: Here is a copy.

Mr. Van Arkel: And as Respondent's Exhibit 19-C-3, I shall ask to have marked for identification—again on behalf of Mr. Sinsheimer—a copy of a telegram from Woodruff Randolph to James A. Stiles, dated September 27, 1947.

(The document above referred to was marked Respondent's Exhibit 19-C-3 for identification.)

Mr. Van Arkel: As Respondent's Exhibit 19-F, I will ask to have marked for identification a copy of a letter dated August 9, addressed "Dear John" and with the printed name at the end "James E. Stiles".

Mr. Sinsheimer: That was Petitioner's Exhibit 67 in the injunction proceeding.

(The document above referred to was marked Respondent's Exhibit 19-F for identification.)

Mr. Van Arkel: As Respondent's Exhibit 19-G, I will ask to have marked for identification, a letter dated September 20, 1947 from Woodruff Randolph to James E. Stiles.

Mr. Sinsheimer: That was Petitioner's Exhibit 68 in the injunction proceedings.

(The document above referred to was marked Respondent's Exhibit 19-G for identification.)

[4201] Mr. Van Arkel: As Respondent's Exhibit 19-H, I shall ask to have marked for identification a copy of a handwritten document which reads:

"If any part of this agreement is declared illegal or inoperative by any agency or court, this entire agreement shall thereupon become null and void."

Trial Examiner Leff: What number is that?

Mr. Van Arkel: No. 19-H.

Mr. Sinsheimer: And that was Respondent's Exhibit No. 70 in the injunction proceeding.

(The document above referred to was marked Respondent's Exhibit 19-H for identification.)

Mr. Van Arkel: Mr. Examiner, I offer Respondent's Exhibits 19-A through 19-H.

Trial Examiner Leff: Any objection?

Mr. Sinsheimer: We have no objection, subject to the same full understanding the Trial Examiner referred to before, which was described in some detail on April 15.

Trial Examiner Leff: The exhibits proffered by Mr. Van Arkel are admitted.

(Thereupon, the documents heretofore marked Respondent's Exhibits 19-A, 19-B, 19-C, 19-C-1, 19-C-2, 19-C-3, 19-D, 19-E, 19-F, 19-G, and 19-H for identification, were received in evidence.)

* * *

[4202] • • • Mr. Van Arkel: Well, I checked them. In the testimony of Mr. Rashley there are certain contract clauses referred to. In each instance, I believe, the particular contract clause which is of interest was read in full into the record; but if the Examiner feels the need for having the entire agreement, we can obtain it.

Trial Examiner Leff: Very well.

Mr. Van Arkel: Now I would like to ask the Examiner to take judicial notice of certain agreements filed with the [4203] Bureau of Labor Statistics, Industrial Relations Branch, pursuant to the provisions of the Taft-Hartley Act; and since, unhappily, I did not have copies prepared, I think I had better read these matters into the record.

Trial Examiner Leff: Very well.

Mr. Van Arkel: The first is a clause contained in the agreements between the United Mine Workers of America and the Associations of Coal Mine Owners and Operators throughout the United States in the contract effective July 1, 1947, which reads as follows:

> "This agreement dated July 7, 1947 shall be effective as of July 1, 1947, and shall terminate June 30, 1948, provided, however, that either the parties of the first part or party of the second part may terminate this agreement on any earlier date by giving at least thirty days written notice to the other party of sure desired earlier termination date.
>
> "The foregoing termination provision shall not be construed to limit or affect in any way the obligations of the parties relating to the termination of contracts under the Labor-Management Relations Act, 1947."

The following revision of an agreement between the Studebaker Pacific Corporation at Los Angeles, California, and Local No. 255 of the United Automobile Workers effective November 16, [4204] 1947, as revised on January 23, 1948:

> "This agreement shall remain in full force and effect until cancelled by either party. Cancellation shall be effective after sixty days written notice. Amendments may be made by mutual consent."

The following clause in an agreement between M. H. Rhodes, Inc. of Hartford, Connecticut, and Local No. 249 of the United Electrical and Radio Workers, CIO, effective December 10, 1947:

"This agreement dated and effective December 10, 1947, shall remain in full force and effect until terminated by either party by a sixty-day notice in writing to the other. It is mutually agreed that neither party will exercise its option to file a termination notice until four months after the effective date above written."

An agreement between the Firing Vessel Owners Association, Inc. of Seattle, Washington, and the Deep Sea Fishermen's Union of the Pacific, an unaffiliated union, known as the Set Line Agreement, effective July 1, 1947, containing the following clause:

"This agreement shall remain in effect from date until cancelled by thirty days written notice by either party."

Now, I have this problem, if the Examiner please. I am [4205] prepared to produce witnesses to testify that all labor agreements in the railroad industry of the United States contain clauses allowing either party to cancel such agreements on thirty days notice.

I can produce witnesses to that effect; and I am wondering whether or not I may appropriately ask the Examiner to take judicial notice of it, or whether Mr. Sinsheimer will stipulate that witnesses should so testify, if called to testify.

That is what I would like to throw out.

Trial Examiner Leff: Do you have any objection to taking judicial notice of the other matters that have been in existence and currently are in existence, with respect to contracts of an indefinite duration with a sixty-day or thirty-day provision—cancellation provision?

Mr. Sinsheimer: In the first place, Mr. Examiner, we contend that it is irrelevant. In the second place, as to those matters which the Trial Examiner may properly take judicial notice of, of course he may take such notice.

Trial Examiner Leff: I think I should announce whether I am taking notice or not.

The Trial Examiner will take notice that on occasions in the past, industrial and other concerns have entered into agreements with unions, the agreements providing for terms of indefinite duration, with cancellation clauses of [4206] approximately sixty days.

• • •